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ABSTRACT

The monograph examines the status of education for the handicapped and addresses the provisions of P.L. 98-199 The Education of the Handicapped Act Amendments of 1983. Chapter 1, on progress in the education of the handicapped, presents information on the following topics: (1) the number of handicapped students receiving a free, appropriate public education; (2) special education and related services personnel; (3) least restrictive environment; (4) student evaluation; (5) individualized education programs; and (6) regressive trends, including the impact of fiscal restraint on actual appropriations. Chapter 2 outlines provisions of P.L. 98-199 regarding such aspects as centers and services to meet the special needs of the handicapped, personnel recruitment and training, research and demonstration projects, and special programs for children with specific learning disabilities. The text of the amended law is included as well as a list of public policy resources that are available through the Council for Exceptional Children. (CL)

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SPECIAL EDUCATION IN AMERICA ITS LEGAL AND GOVERNMENTAL FOUNDATIONS SERIES

PROGRESS IN THE EDUCATION OF THE HANDICAPPED AND ANALYSIS OF P.L. 98-199

THE EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1983

A product of the ERIC Clearinghouse on Handicapped and Gifted Children

The Council for Exceptional Children

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ABOUT THE SERIES

The past two decades have brought about dramatic changes in the fundamental policies governing special education. Terms that today glibly roll from our tongues, such as the right to education, IEP, due process, nondiscriminatory assessment, zero reject, and least restrictive environment, were not a part of our lexicon only a decade ago. Today it is not sufficient to simply know how to teach in order to be a teacher; to know how to manage in order to be an administrator; or to know how to care in order to be a parent. Today, and in the future before us, all persons involved in special education must be fully knowledgeable of the legal and governmental foundations governing education of handicapped and gifted children. It is to this purpose that this series is devoted.

It is natural that The Council for Exceptional Children undertake this series due to its role as the authority and resource educators look to for guidance in providing an appropriate education for their handicapped and gifted students. CEC has been a dominant force in translating the fundamental precepts of special education into policies that provide basic protections for exceptional children and their families. In fact, the policy research activities of CEC have provided the models upon which many federal, state and provincial, and local policies have been formulated and evaluated. CEC's activities at all levels of government have been a major force in the adoption, implementation, and enforcement of progressive public policy. And finally, through its publications, training materials, conventions, workshops, technical assistance, and other services, CEC has been a major resource whereby policy makers and utilizers understand policy and translate it into action.

This series represents a next step in the evolution of CEC's public policy publications. The flagship text for the series, Special Education in America: Its Legal and Governmental Foundations, edited by Joseph Ballard, Bruce Ramirez, and Frederick Weintraub, provides the basic knowledge that every general and special educator and parent of an exceptional child should have. The text is designed for use in professional training programs as well as a basic information resource for practitioners and parents. It is not a book written for lawyers--the editors have tried to follow the old axiom, "keep it simple," to assure a style that is understandable to the general public. Chapter authors were selected because of their extensive knowledge of the subject and their ability to communicate this knowledge in understandable terms. The supplemental works of the series, published as ERIC Exceptional Child Education Reports, provide more intensive information in specific subject areas, but do not repeat the basic information contained in the primary text. For example, the reader whose primary interest is in early childhood special education policy issues would first want to obtain a knowledge base in special education policy by reading Special Education in America: Its Legal and Governmental Foundations and then turn to Policy Considerations Related to Early Childhood Special Education, by Dr. Barbara J. Smith, for a thorough treatment of this specific policy area.

Some may ask, "Why publish a special education public policy series when so many proposals for change are being promoted?" Public policy is dynamic and, thus, is always in a state of change. However, the fundamental policy principles tend to evolve over time on a steady course, while the more detailed requirements tend to shift with the political and economic winds. Therefore, the primary text of the series serves as a basic work that will have reasonable longevity, while the more detailed supplemental publications, such as this one, will have a shorter life span and will be updated accordingly. Further, we believe that in a period in which change is being discussed, it is imperative that persons affected by such changes understand the nature and evolution of present policies so that they can better assess and contribute to the changes being proposed.

Frederick J. Weintraub

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CHAPTER I

PROGRESS IN THE EDUCATION OF THE HANDICAPPED

The statement in Chapter I was originally presented before the Subcommittee on Elementary, Secondary, and Vocational Education of the U.S. House of Representatives Committee on Education and Labor, January 31, 1984.

INTRODUCTION

The following statement was developed by The Council for Exceptional Children (1983) for the Congress of the United States to describe in summary fashion the progress that has occurred in the education of handicapped students since the passage of P.L. 94-142, the Education for All Handicapped Children Act of 1975. It is not based on CEC-conducted research but highlights the findings of selected major evaluation studies contracted for by the U.S. Department of Education, the data collected by the Department, and the Annual Reports submitted by the Department to the Congress.

As noted above, this is a summary and as such attempts to paint in broad strokes the national picture relating to implementation of P.L. 94-142. The statements may be misleading if applied to a particular state or school district. Further, other research or evaluation studies may support, contradict, or elaborate on the findings presented here. Thus, the statement can and should be used only as a base line for further examination.

THE FEDERAL ROLE IN SPECIAL EDUCATION

The history of the federal role in special education is a long and proud one. One hundred fifty-seven years ago Public Law 19-8 provided assistance to establish a school for the deaf in Kentucky. Since that time the Congress, on a bipartisan basis, has established programs and provided resources to enable research to be conducted, personnel to be trained, model programs to be developed, and information to be provided to the public. The recent passage of the Education of the Handicapped Act (EHA) Amendments of 1983, P.L. 98-199, is testimony to that commitment. Despite the long history of federal involvement in the education of handicapped children, the Congress found in the early 1970s that many handicapped children were being excluded from any education at all, that many other handicapped children did not have available the special education they required, that some forms of decision making regarding evaluation and placement of such children contradicted their educational needs, and that there were not sufficient state and local resources to provide the services these children so desperately needed. In response, the Congress took the courageous step of enacting the Education for All Handicapped Children Act of 1975 (P.L. 94-142). Through the passage of this landmark legislation, the Congress mandated the education of handicapped students, established procedures regarding educational decision making for such students, and dramatically increased federal funding for special education and related services.

Stanford Research Institute (SRI) International (1982) conducted a 4-year study for the Department of Education on the implementation of P.L. 94-142 at the local level. SRI concluded its report with the following statement:

> In sum, the broad consensus in the districts that SRI has studied is that handicapped children are the primary beneficiaries of P.L. 94-142 because of an increase in the scope and comprehensiveness of special education programs and services at the local level. In addition, most people at the local level believe that the quality of programs and services has improved as well. Children who need special education have been identified earlier, handicapped children who had been unserved previously are now being served, and handicapped children who had been underserved are being served more appropriately now than they were 4 years ago. (p. xxi)

SRI goes on to note that the tremendous gains that were made in the school years 1978-79 and 1979-80 were significantly constrained in the following 2 years because of diminishing resources.

> However, although LEAs have made tremendous progress in implementing P.L. 94-142, they still have not achieved the integration of procedures, programs/services, and training necessary to meet fully the intent of P.L. 94-142 (i.e., the achievement of an individualized, child-driven system). A lack of resources in the last year or two has inhibited further progress in the development of high quality, comprehensive special education programs and services. Thus, the effect of the law as an impetus to action is decreasing as fiscal constraints begin to dominate. In this era of diminishing resources, however, the law assumes more importance as a tool with which special education administrators can hold onto the gains that have been made in serving handicapped children. (p. xxii)

Numerous studies supported by the Department of Education and data and reports published by the Department confirm the overall SRI conclusion. This chapter details major findings of such studies and data in order to demonstrate the impact of one major federal education program (P.L. 94-142) on the lives of handicapped children, their families, and the professionals who serve them.

NUMBER OF HANDICAPPED CHILDREN AND YOUTH RECEIVING A FREE, APPROPRIATE PUBLIC EDUCATION

During school year 1976-77, the states reported that 3,708,588 handicapped students, ages 3-21, were receiving special education (Table 1). By school year 1982-83, an additional 589,224 handicapped students were receiving special education and related services in accordance with the requirements of

Table 1

Number of Handicapped Children and Youth Ages 3-21 Years Served Under P.L. 94-142 and Chapter 1 (P.L. 89-313)

School Year	P.L. 94-142 (3-5)	P.L. 94-142 (6-17)	P.L. 94-142 (18-21)	P.L. 94-142 (3-21)	P.L. 89-313	Combined Total
1976-77	196,287	3,301,769[1]	---	3,498,055	223,832	3,708,588
1977-78	200,589	3,353,965[1]	---	3,554,554	222,732	3,777,286
1978-79	215,621	3,391,978	102,040	3,709,639	225,480	3,919,073
1979-80	231,815	3,446,132	124,528	3,802,475	233,744	4,036,219
1980-81	233,793	3,560,623	139,565	3,933,981	243,708	4,177,689
1981-82	227,612	3,603,335	159,399	3,990,346	242,9036	4,233,282
1982-83	242,104	3,636,502	173,603	4,052,209	245,603	4,297,812

Note: From U.S. Department of Education, Annual Report to Congress on the Implementation of P.L. 94-142: The Education for All Handicapped Children Act, 1979, 1980, 1981, 1982, and 1983 and U.S. Department of Education, Report of Handicapped Children Receiving Special Education and Related Services as Reported by State Agencies Under P.L. 94-142 and P.L. 89-313, School Year 1982-1983, 1983. Unpublished.

[1]Includes handicapped children ages 6-17 and 18-21 years.

P.L. 94-142 for a total of 4,297,812 students (Figure 1). While this represents a growth of 15.9 percent, its real growth is even more significant. In school year 1976-77, special education was serving 7.25 percent of the school-aged population (Figure 2). In school year 1982-83 that percentage increased to 9.36 percent. During that same period of time, total school enrollment declined substantially. (From 1970-71 to 1980-81 the National Center for Education Statistics (1982) reported that public school enrollment declined by 10.7 percent.) If in school year 1982-83 the same percentage of handicapped students were served as in school year 1976-77 (7.25 percent), then an estimated 324,200 less handicapped students would have received special education. Thus, it can be postulated that P.L. 94-142 has increased the number of handicapped students receiving special education by approximately 25 percent.

Department of Education data indicate that while there have been gains for all handicapped students, some groups of handicapped children have shown significant improvement in levels of participation. Since the 1976-77 school year, the number of preschool handicapped children (ages 3-5) receiving special education has grown by 23.3 percent. While this is an impressive gain, The Council for Exceptional Children reported in 1983 that the number of preschool children presently served represents only 50 percent of the estimated number needing such services. Even more striking has been the increased number of older handicapped youth (ages 18-21) receiving special education and related services. In 1982-83, 173,603 youth, ages 18-21, were counted under P.L. 94-142, an increase of 71,563 (70 percent) since the Department began distinguishing these students in the child count. The National Rural Research and Personnel Preparation Project (1980), which studied the impact of P.L. 94-142 on rural school districts, reported similar increases in services to preschool handicapped children and older handicapped youth (Table 2).

Further analysis of Department of Education (1983) data indicates that significant growth has also occurred in certain disability categories that were historically unserved or underserved, most notably children who are specific learning disabled, seriously emotionally disturbed, multihandicapped, or severely handicapped. Likewise, the National Rural Research and Personnel Preparation Project (1980) reported similar changes in categories of handicapping conditions identified and served (Table 3). With regard to the severely handicapped, the Department of Education in 1981 reported that prior to the passage of P.L. 94-142 "many severely handicapped students in the United States were denied the right to educational services within their local school districts" (p.20). As a result of the mandate that all handicapped children have a right to a free and appropriate public education, the number and quality of public school programs for the severely handicapped has increased dramatically" (p.21). The Department further credits increased community services as the critical factor influencing parents not to institutionalize their severely handicapped children, and, thus, resulting in significant cost savings to society.

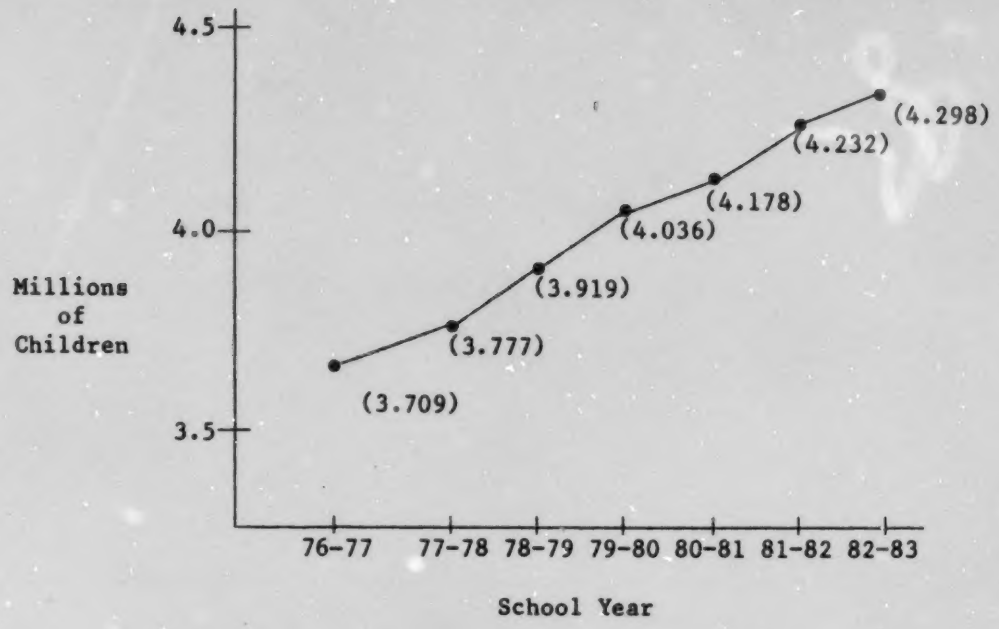

Figure 1. Number of handicapped children, 3-21 years, served under P.L. 94-142 and Chapter 1 (Formerly P.L. 89-313).

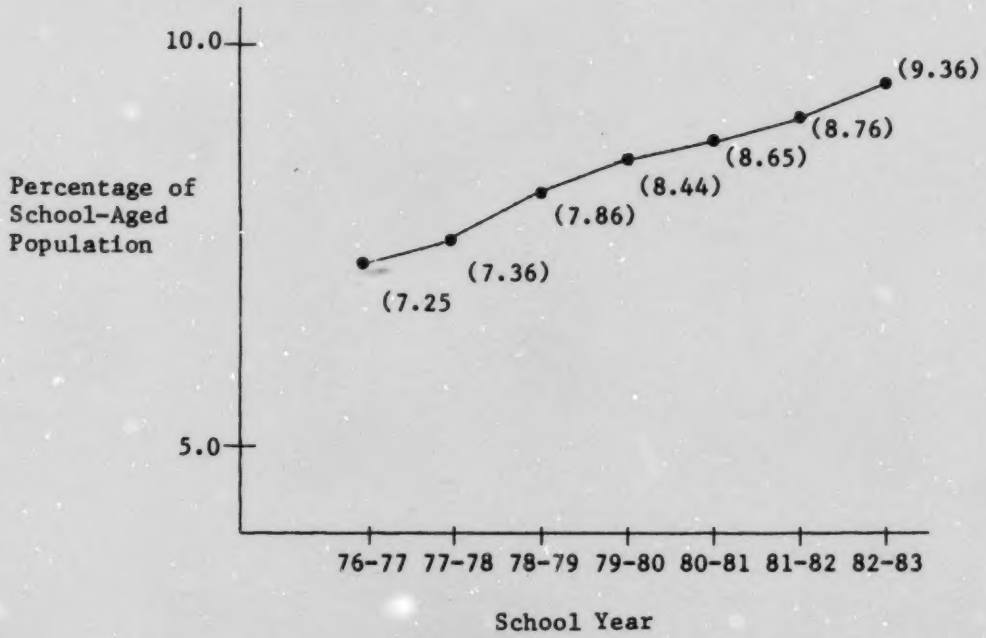

Figure 2. Number of handicapped children, 3-21 years, as a percentage of school-aged population served as handicapped.

Table 2

Differences in Percentages of Districts Serving Various Ages of Handicapped Students Before and After Implementation of P.L. 94-142

	Before PL 94-142	After PL 94-142	Percent Change
0-2 years	0%	14%	**
3-4 years	7%	63%	+800%*
5-6 years	86%	100%	+16%*
7-8 years	96%	100%	+4%
9-10 years	100%	100%	0%
11-12 years	98%	100%	+2%
13-14 years	93%	100%	+8%
15-16 years	85%	100%	+18%
17-18 years	69%	86%	25%
19-20 years	36%	72%	+100%*
21 years	16%	68%	+325%*

Note: From National Rural Research and Personnel Preparation Project, A National Comparative Study Regarding Rural Special Education Delivery Systems Before and After Passage of P.L. 94-142, 1980.

Table 3

Categories of Handicapping Conditions Identified and Served Before and After P.L. 94-142 Implementation

	Before PL 94-142	After PL 94-142	Percent Change
Educably Mentally Handicapped	57%	72%	+26%*
Speech Impaired	37%	61%	+65%*
Trainably Mentally Handicapped	59%	77%	+31%*
Learning Disabled	27%	79%	+193%*
Hearing Impaired	25%	60%	+140%*
Emotionally Disturbed	9%	52%	+478%*
Visually Handicapped	17%	57%	+235%*
Severely Handicapped	4%	47%	+1075%*
Orthopedically & Physically Handicapped	7%	47%	+571%
Multihandicapped	0%	47%	**
Developmental Disabilities	0%	1%	**
Handicapped Students Not Classified by Disability Area	8%	0%	-100%*

Note: From National Rural Research and Personnel Preparation Project, A National Comparative Study Regarding Rural Special Education Delivery Systems Before and After Passage of P.L. 94-142, 1980.

*Significant to the .05 level.
**Increase infinite; statistic cannot be calculated.

SPECIAL EDUCATION AND RELATED SERVICES PERSONNEL

As the population of handicapped students has grown, so too has the number of personnel responsible for serving handicapped children and youth (Table 4). Overall, the number of special education teachers has increased from 179,804 in school year 1976-77 to 235,386 in school year 1981-82, an increase of 30.9 percent. Similarly, we have witnessed a dramatic increase in the number of school staff other than special education teachers employed to serve handicapped children and youth (e.g., psychologists, occupational and physical therapists, teacher aides). Such personnel have increased by 49.0 percent from school year 1976-77 to 1981-82.

LEAST RESTRICTIVE ENVIRONMENT

In 1983 the Department of Education reported that more than 92 percent of handicapped students are being educated in regular schools, either in regular classes with part-time special education or in special classes (Figure 3). While this percentage is relatively consistent with data from 1976, there appear to be significant changes in the nature of the populations served within the various educational environments. Because of tighter eligibility requirements and procedural protections, a number of children who before P.L. 94-142 were labeled handicapped and served in regular education with part-time special education have been returned to regular education. At the other end of the spectrum a number of severely handicapped students who were previously excluded from education have entered the system, in many instances served in more restrictive environments. Thus, while there has been a relative consistency of the percentage of handicapped students served in the various educational environments along the least restrictive environment continuum, the nature of such children in terms of their severity has tended to progress up the continuum. Likewise, SRI reported in 1982 that there has been, over the period of implemention of P.L. 94-142, a significant expansion of program placement options extended to handicapped students by local education agencies (LEAs). The National Rural Research and Personnel Preparation Project (1980) assessed changes in rural school systems as a result of P.L. 94-142 and reported an increased use of alternative settings, personnel, and services to build an array of services needed for "least restrictive" education. The rural school districts they surveyed reported a 200 percent increase in services provided to severely handicapped students by the public schools.

There is, however, serious question as to the degree to which this trend will continue. The SRI (1982) study, for example, found that in the school year 1980-81, as LEAs were faced with fewer financial resources, there was a slowdown in the expansion of the continuum of program options. This trend continued, they reported, in school year 1981-82.

Table 4

Number of Special Education Teachers and Other School Staff
Employed Annually to Serve Handicapped Children 0-21 Years Old

Personnel	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	Percent Change
Special Education Teachers	179,804	194,802	203,238	220,854	232,627	235,386	+30.9
Social Workers	5,881	7,459	8,702	8,335	8,960	7,598	+29.2
Occupational/Recreational/ Physical Therapists	1,905	2,678	4,085	4,180	4,754	5,114	+168.5
Teacher Aides	66,876	78,969	85,277	82,096	93,208	97,845	+46.3
Physical Education Coordinators	5,014	7,233	18,745	9,271	7,235	4,404	-12.2
Supervisors	10,161	9,680	15,119	12,056	10,216	11,672	+14.9
Other Non-Instructional Staff	17,479	21,837	22,142	43,459	30,139	34,605	+98.0
Psychologists/Diagnostic Staff	17,731	15,853	23,457	21,257	21,003	22,706	+28.1
Speech Pathologists/Audiologists	11,502	13,269	17,099	14,777	15,975	22,295	+93.8
Work-Study Coordinators/Vocational Education Teachers	6,857	7,251	10,720	10,264	7,736	7,659	+11.7
Total	323,210	359,033	408,583	426,528	429,859	449,285	+39.0

Note: From U.S. Department of Education, Fifth Annual Report to Congress on the Implementation of P.L. 94-142, 1983.

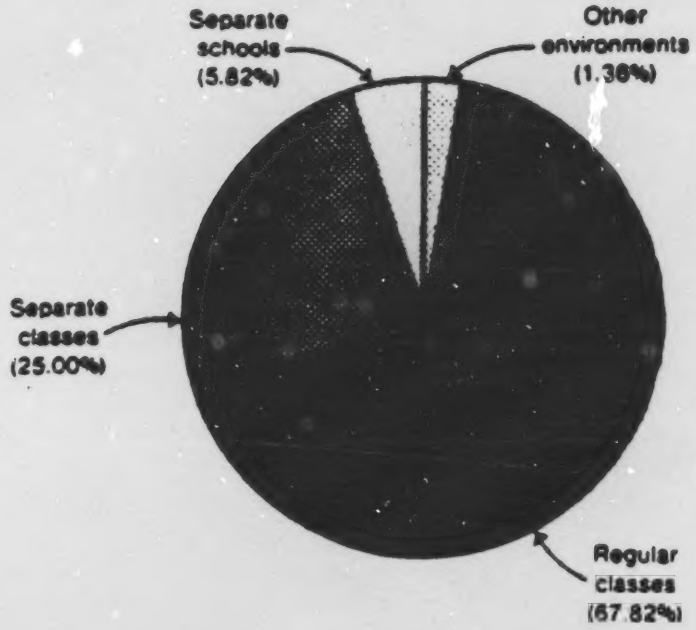

Figure 3. Percentage of handicapped children, 3-21 years, served in four educational environments, school year 1980-81.
Note: From U.S. Department of Education, Fifth Annual Report to Congress on the Implementation of P.L. 94-142, 1983.

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STUDENT EVALUATION

The various studies of the implementation of P.L. 94-142 concur that there has been marked improvement in the quality and scope of the preplacement evaluation and reevaluation procedures for handicapped students. SRI (1982) concluded that "more individuals with different roles relative to children have been involved in the evaluation process than before; as a result, evaluations have become more comprehensive" (p.32). The National Rural Research and Personnel Preparation Project (1980) found that since the passage of P.L. 94-142 educational, psychological, and medical diagnostic and evaluation services increased by 35 percent.

In the period 1978-80, schools made significant improvement in reducing evaluation backlogs by employing additional evaluation personnel and expanding program services. Despite steady improvement there still remain significant backlogs in initial evaluations and reevaluations. A recent study conducted by Applied Management Sciences (1983) found that from September to mid-December 1980 teachers referred for assistance nearly 3,400,000 students. By mid-December, 52 percent of these students had been evaluated and were receiving some form of assistance (845,000 in special education and 915,000 in remedial or supplementary services), 37 percent were still in the process of being evaluated, and 11 percent were waiting to be evaluated. SRI (1982) reports that while there continues to be some gradual improvement, constrained resources in a number of school districts, particularly the urban districts surveyed, are restricting the district's ability to reduce backlogs in evaluation and placement.

Prior to the passage of P.L. 94-142, studies reported that the percentage of minorities in certain special education classes was higher than would be expected from their percentage in the school population. The Office of Civil Rights' Elementary and Secondary Schools Civil Rights Survey (1980) found that the percentage of Blacks and American Indians in classes for the mentally retarded was higher than their percentage in the school-aged population. On the other hand, the percentage of Hispanics and Asians was lower. The national survey of referral, assessment, and placement practices (Applied Management Sciences, 1983) suggested that this situation is improving. First, minority students are being referred for evaluation in roughly the same proportion as nonminority students, although a discrepancy still exists at the secondary school level. Second, the scope of assessments are more comprehensive and minority students are being evaluated as comprehensively as nonminority students. Finally, minority students are being placed in special education at a rate not disproportional to nonminority students.

INDIVIDUALIZED EDUCATION PROGRAMS

Major objectives of P.L. 94-142 are to assure that special educational programs are designed to meet the unique educational needs of handicapped

students and to assure participation of parents and professionals in such programmatic decision making. The primary vehicle for achieving these interconnected objectives is the required individualized education program (IEP). While in concept the IEP is not foreign to special education, its implementation required more systematic change than anything else. By law, each of the 4.1 million handicapped students either have an IEP developed for them or have their existing IEP reviewed annually. This process culminates in at least one meeting where the parties involved attempt to reach agreement on the student's IEP. Although the statute only requires that three persons (four when the student is involved) participate in the IEP meeting, the Department of Education (1983) reported that the average number of persons attending IEP meetings is six. If each IEP meeting were to take one hour of time, then a minimum of twenty-four million person hours are being spent each year by professionals and parents in formal interaction to determine the appropriate special educational services for handicapped students. This does not include the substantial time spent preparing for such interactions.

Recent studies (SRI, 1982; National Association of State Directors of Special Education (NASDSE), 1981) show that despite initial resistance, the IEP system is in place throughout the nation, attitudes toward it have become more positive, and the time and paperwork involved appear to be decreasing. NASDSE (1981) identified five factors that have effected improved attitudes: experience, familiarity with the process, more efficient systems, simplified forms, and inservice training. Of the 20 school districts studied by NASDSE, all 20 indicated that they would continue to use something like the IEP if present federal and state requirements were discontinued. They cited the following reasons for their support of the IEP process: It enhances communication with parents, assists in program planning, increases communication among school staff members, provides an evaluation tool, is good educational practice, and increases individualization. In the words of two respondents:

> Overall, the IEP has put order, consistency, and reliability into programming and planning for each child. It made us look more carefully into the coordination of resources to program for the child. It will continue to do this, and we do it better each year. The IEP process has also helped our teachers identify the individual needs of each handicapped child. (NASDSE, 1981 as cited in U.S. Dept. Ed., 1982, p.28)

> IEPs have really helped special education for handicapped children come a long way. The process has created stress in areas in which change was needed. We have come through the rough times and now are comfortable with what we are doing. I think IEPs are helping children learn, and that is what special education is all about. (NASDSE, 1981 as cited in U.S. Dept. Ed., 1982, p.28)

REGRESSIVE TRENDS

Studies by Rand (1982b), SRI (1982), and others suggest that during the first years of implementation of P.L. 94-142, appropriations for special education grew sufficiently to provide for program expansion and improved quality. Figure 4 shows that from 1978 to 1980 funding for P.L. 94-142 (Part B EHA) grew from $254 million to $804 million, a growth of more than 200 percent. (See Figure 5 for funding prior to 1978). In terms of real dollars, funding grew from 5 percent of the national average per pupil expenditure of elementary and secondary education in fiscal 1978 to slightly more than 12 percent in fiscal year 1980 (Figure 6). During the period 1981-84, despite repeated efforts by the Administration to drastically reduce funding for this program, the Congress continued to increase funding, although at a significantly reduced rate. In terms of real dollars, funding declined during this period from slightly less than 12 percent of the national average per pupil expenditure of elementary and secondary education to slightly less than 10 percent. This decrease coupled with severely constrained state and local resources are having a profound effect on the ability of school systems to fully meet the requirements of P.L. 94-142 and improve the quality of special education and related services. Based upon the previously cited studies, it would appear that fiscal restraints are having the following impact on special education:

1. Handicapped children who are receiving special education services will receive them less often or in larger groups (Rand, 1982a).

2. Newly identified handicapped children will remain longer on waiting lists before they can be served (Rand, 1982a).

3. There will be little growth in the expansion of program options, which will particularly impact on efforts to develop more integrated programs (SRI, 1982).

4. A serious constraint or reduction will be placed on the provision of related services (Rand, 1982b, and SRI, 1982).

5. Children will be restricted from special education by narrowing eligibility criteria (Rand, 1982b).

6. Age eligibility will be narrowed to reduce responsibilities for preschool and older handicapped students (Rand, 1982b).

7. The amount of inservice training of educators and parents will be substantially reduced (SRI, 1982).

8. There will be increased use of the P.L. 94-142 administrative due process procedures, and ultimately the courts, by parents and advocates to obtain services schools are unable to finance (Rand, 1982a).

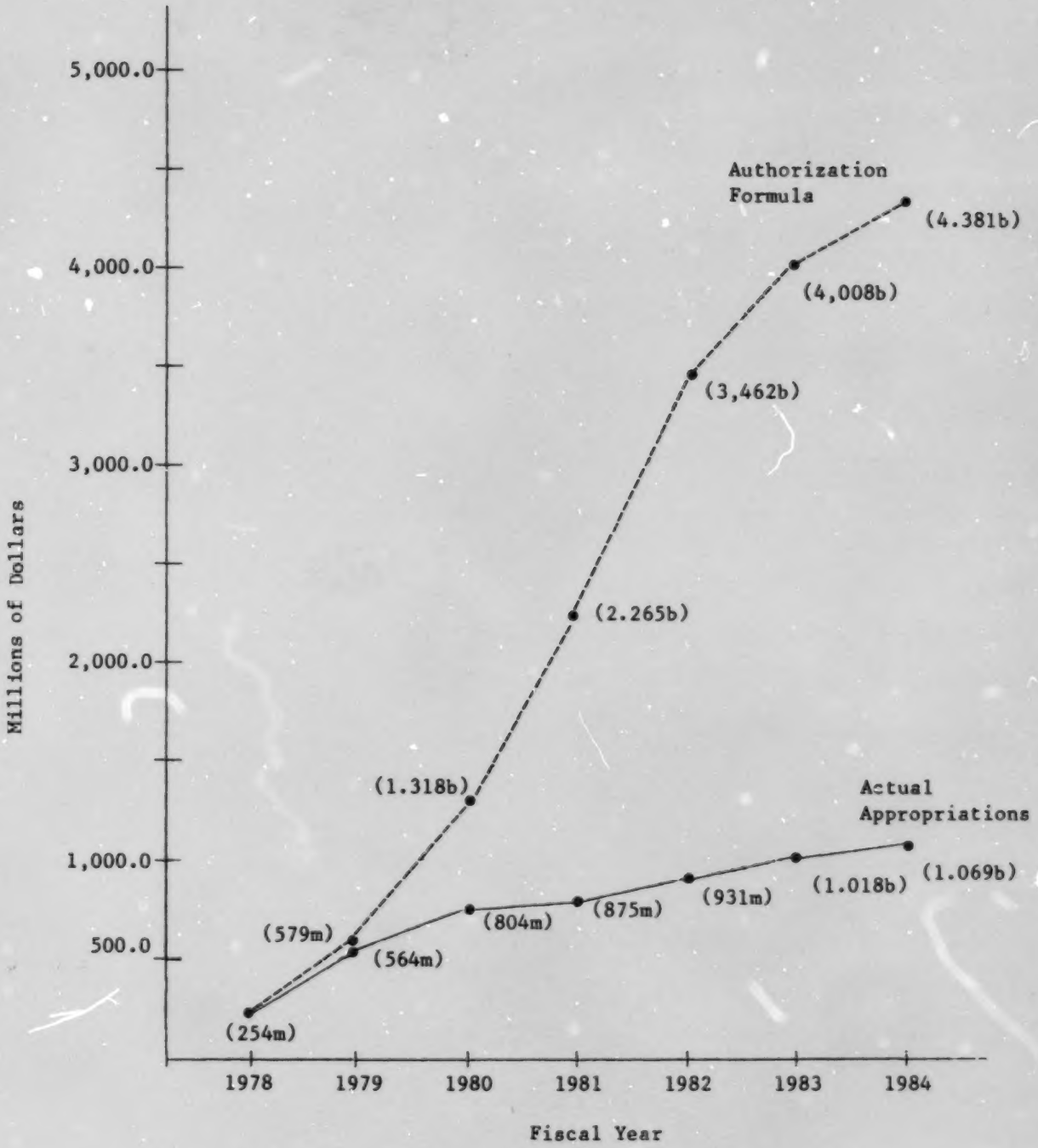

Figure 4. P.L. 94-142 (Part B of EHA) funding history.

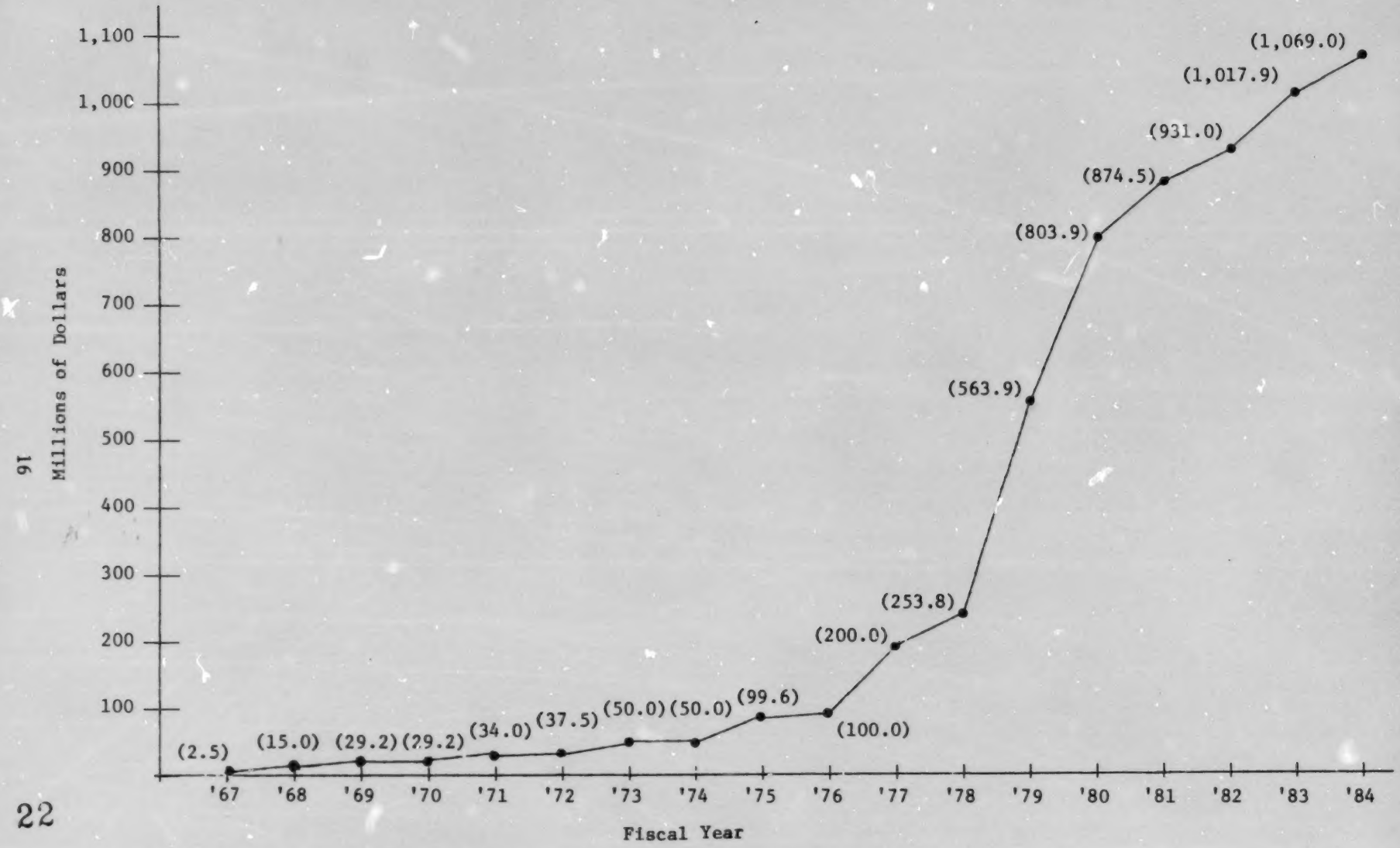

Figure 5. Appropriations for Part B of the Education of the Handicapped Act as amended by P.L. 94-142, fiscal years 1967-1984.

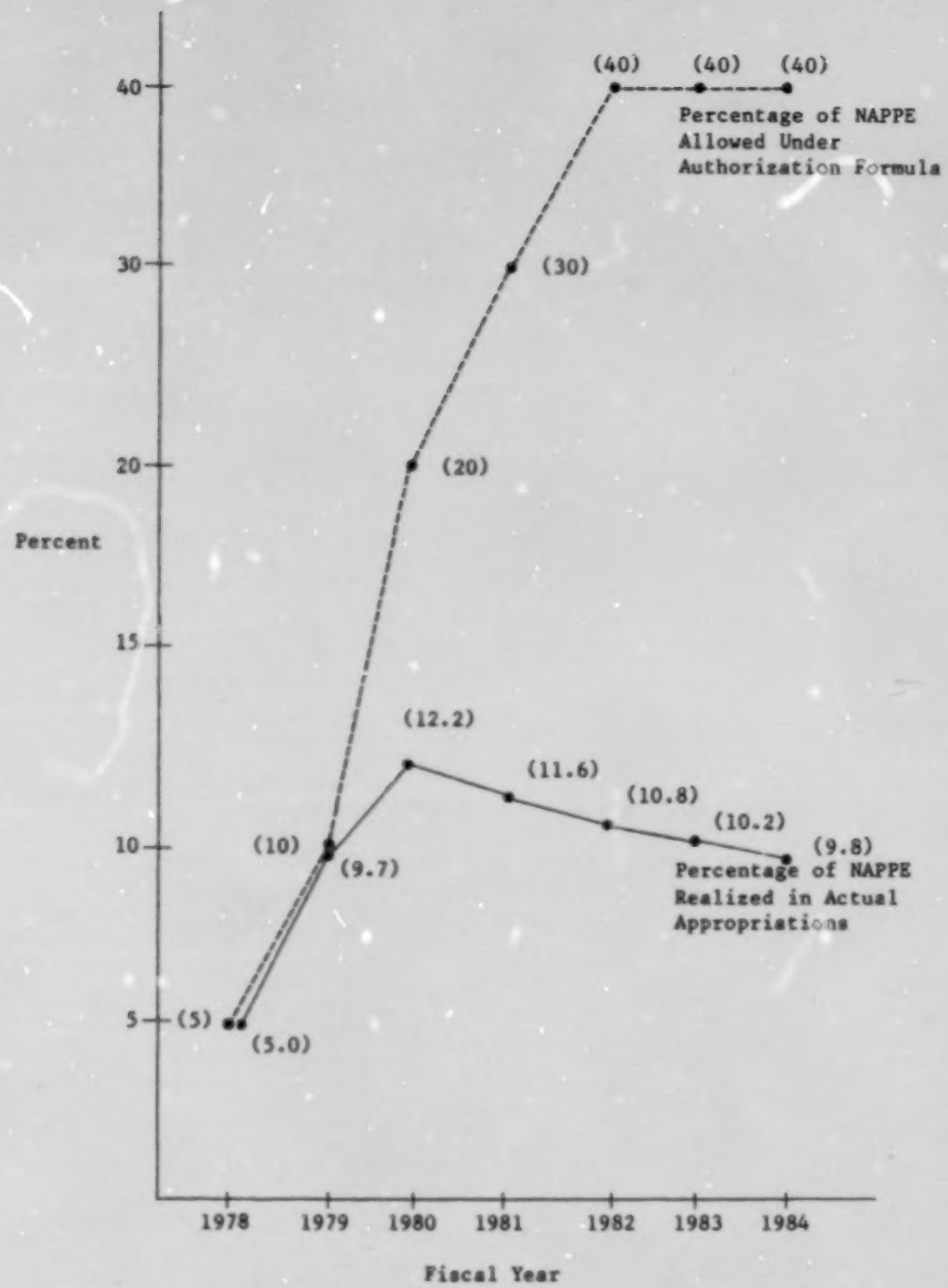

Figure 6. P.L. 94-142 (Part B of EHA) funding as a percentage of the national average per pupil expenditure (NAPPE) for public elementary and secondary education.

9. There will be increased competition between handicapped interests and interests for other special populations for scarce resources (Rand, 1982a).

Last year the Subcommittee on Select Education established a Commission on the Financing of a Free and Appropriate Education for Special Needs Children. The Commission (1983) made a number of recommendations to the Department of Education and to state and local education agencies aimed at a more efficient utilization of resources and improved services. The Commission also made three recommendations to the Congress that seem especially relevant:

1. The Congress should preserve the P.L. 94-142 statute without change because it is based on sound equity principles and is working well to ensure a free, appropriate public education for all handicapped school-aged children.

2. The Congress should increase current P.L. 94-142 (Part B) appropriations, and both federal and state governments should allocate new funds to support critical intervention strategies for at-risk children below school age.

3. The federal government should fully fund the EHA discretionary program to support research, training, model development, and dissemination programs which together work to ensure that every handicapped child receives an appropriate education.

Lastly, the President's National Commission on Excellence in Education (1983) recognized the importance of the federal role in special education when it called upon the federal government to help meet the needs of handicapped students because they are among the nation's youth most at risk.

As noted previously, the federal government has had a long history of playing a significant role in improving the education of handicapped children. Using government-sponsored studies and data we have attempted to demonstrate that the federal role has had a profound, positive impact on improving educational opportunities for handicapped children and youth. We believe the Congress and the American people should take great pride in what has been achieved for the handicapped children and youth of our nation. While we all agree that we must improve the quality of education, we must first recognize the important gains we have made, the education of handicapped children being one, and assure that, as we go forward to improve quality, we recognize the unique needs of all American children and youth.

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CHAPTER II

ANALYSIS OF P.L. 98-199

INTRODUCTION

Since its enactment in 1966, the Education of the Handicapped Act (EHA) has served as the foundation for the federal role in the education of the handicapped. Over the years the Congress has continued to increase the federal role in special education by amending the EHA to expand existing programs and authorize new programs, such as early childhood education, recruitment and information, regional resource centers, centers for deaf-blind children, personnel development, and postsecondary education programs.

Unlike the Part B state grant program (P.L. 94-142), which has a permanent authorization, the various discretionary programs authorized by Parts C through F of the Act must be reauthorized at specific levels of funding over varying periods of time in order for these programs to continue. In this regard, the Education of the Handicapped Act Amendments of 1983, P.L. 98-199, extended the fiscal authorizations for the EHA discretionary programs through 1986 and revised the program authorities to respond to emerging needs in the education of the handicapped. Some of the notable changes include:

- Reestablishment of the National Advisory Committee on the Education of Handicapped Children and Youth.
- Expansion of the evaluation requirements to include all of the EHA programs.
- Establishment of grants to states to develop and implement comprehensive plans to provide early childhood education to all handicapped children from birth through 5 years of age.
- Creation of a new program to stimulate and improve secondary special education and transitional services.
- Renewed emphasis on the preparation of special education and related services personnel, as well as a requirement that training programs meet state and professionally recognized standards.
- Increased support for parent training and information.
- Emphasis in research on the improvement of teaching methodology and curriculum, and the application of new technologies toward improved instruction.

A fuller description of these as well as other amendments is presented in this chapter. For the precise statutory language refer to Chapter 3, which contains a complete copy of the EHA.

GENERAL PROVISIONS

Definitions

Section 2 of P.L. 98-199 amended Section 602 of the EHA in the following manner:

- The term "speech and language impaired" replaces "speech impaired" under the definition of "handicapped children." According to the House Report (No. 98-410) the intent of this change was to make this term consistent with the terminology being used by many state and local educational agencies and to more accurately identify communicatively handicapped children and youth (U.S. House of Representatives, 1983).

- Adds the "Northern Mariana Islands" to the list of jurisdictions included within the definition of "state."

- For the purposes of Part C of the Act (Centers and Services to Meet the Special Needs of the Handicapped), defines "handicapped youth" to mean any handicapped child who either is 12 years of age or older or is enrolled in seventh grade or higher in school.

Section 17 of the Education of the Handicapped Act amendments requires the Secretary of Education to conduct a review and evaluation of the term "behaviorally disordered" as the term relates to handicapped children. The House bill, as reported, would have replaced the term "seriously emotionally disturbed" with the term "behaviorally disordered" on the grounds that this terminology would be less stigmatizing as well as more professionally acceptable and educationally relevant. The Secretary must submit to the Congress a report of the findings of the review, together with a detailed proposal regarding necessary legislation to implement the report's recommendations.

Administrative Unit for Special Education

In addition to technical and conforming amendments reflecting the establishment of the Office of Special Education and Rehabilitative Services (OSERS) by the Department of Education Organization Act, Section 3 of P.L. 98-199 amended Section 603 of the EHA to designate the Office of Special Education Programs as the principal agency within the Department responsible for administering and carrying out the EHA and other federal programs and activities concerning the education and training of the handicapped.

The amendments also specify that the Office of Special Education Programs (OSEP) is to be headed by a Deputy Assistant Secretary, appointed by the Secretary, who reports to the Assistant Secretary for Special Education and Rehabilitative Services. The legislation further provides for at least six OSEP staff positions, including the position of Associate Deputy Assistant

Secretary, to assist the Deputy Assistant Secretary in carrying out his or her duties.

National Advisory Committee on the Education of the Handicapped

The Education of the Handicapped Act Amendments amended Section 604 of the EHA to reestablish the National Advisory Committee on the Education of the Handicapped, which had ceased to exist in fiscal 1977 because it was not reauthorized. With respect to the need to reconstitute the national advisory committee, the House Committee on Education and Labor (1983) stated:

> ...It is the Committee's belief that as we continue to strive for total compliance under Public Law 94-142, the Education for All Handicapped Children Act, and carry out the activities authorized under this bill the need for an advisory body to review the administration and operation of programs under this Act and other provisions of law with respect to handicapped children is again apparent. It is the Committee's belief that the sundry new initiatives included in the present reauthorization of the Act (e.g., secondary and transitional services) warrant the reauthorization of the Advisory Committee.... (p. 20)

Renamed the National Advisory Committee on the Education of Handicapped Children and Youth, the 15-member advisory panel, composed of parents of handicapped children, handicapped persons (including students), and persons affiliated with education, training, or research programs for the handicapped, is to:

- Review the administration and operation of programs authorized by the EHA as well as other statutory provisions administered by the Secretary with respect to handicapped children and make recommendations for their improvement.

- Submit an annual report of its findings and recommendations to the Secretary no later than June 30 of each year. The Secretary shall transmit such report along with his or her comments and recommendations to the Congress.

Grants for the Removal of Architectural Barriers

The 1983 amendments revised Section 607 of the EHA to authorize grants and cooperative agreements with state educational agencies (SEAs) to assist such agencies in making grants to local educational agencies (LEAs) or intermediate educational units (IEUs) to pay part or all of the cost of altering existing buildings and equipment in accordance with the Architectural Barriers Act, P.L. 90-480. Under previous law the Secretary was authorized to make grants directly to LEAs and IEUs.

Promulgation of Part B Regulations

In response to the controversy created by the Department of Education's proposed Part B (P.L. 94-142) regulations, Section 6 of P.L. 98-199 added a new section to the EHA (Section 608) to require that any changes in the Part B regulations have a 90-day review period, rather than the 30-day period that is otherwise required for education programs by Section 431(b) of the General Education Provisions Act (GEPA). The amendments further prohibit the Secretary from implementing or publishing any final regulation which "procedurally or substantively lessens" the protections provided to handicapped children in effect on July 20, 1983 (particularly as such protections relate to parental consent to evaluation and placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at meetings to develop the individualized education program or qualifications of personnel) unless such regulation "reflects the clear and unequivocal intent of Congress in legislation." The Secretary is also required to transmit a copy of the regulations to the National Advisory Committee on the Education of Handicapped Children and Youth concurrently with publication in the Federal Register.

ASSISTANCE FOR THE EDUCATION OF ALL HANDICAPPED CHILDREN

Except for the participation of handicapped children in private schools, the Education of the Handicapped Act Amendments of 1983 did not substantively change the state grant program authorized under Part B of the EHA. The state grant program is more commonly referred to as P.L. 94-142, the Act that amended and expanded the program in 1975. Other authorities under Part B amended by P.L. 98-199 include the preschool incentive grant program (Section 619) and the data collection, evaluation, and annual report requirements (Section 618).

Participation of Handicapped Children Enrolled in Private Schools

Section 7 of the 1983 legislation amended Section 613 of the EHA to authorize the Secretary to bypass the State Educational Agency (SEA) to provide services to handicapped children enrolled in private elementary and secondary schools in states where the SEA is prohibited by law from providing for the particiption of these students in special programs for the handicapped. Intended to rectify a problem in Missouri where the state's constitution has been interpreted to preclude the state, under most circumstances, from providing services to students enrolled in private schools, this provision is limited to states where similar prohibitions exist as of December 2, 1983.

Other features of this so-called "bypass" provision include:

- Consultation by the Secretary with the appropriate public and private school officials before arranging for a bypass.

- Limitation on the amount per child to be paid to the provider of services which may not exceed the amount per child provided under Part B of the EHA for the preceding fiscal year.

- Deduction from the State's allocation under Part B of the estimated amount necessary to pay the cost of such services.

- Due process protections (i.e., written notice, opportunity for a hearing, judicial appeal) when the Secretary proposes that a bypass be implemented.

Preschool Incentive Grants

To encourage states to begin to serve their handicapped children at the earliest possible age, the Congress passed Section 9 of P.L. 98-199, which amended Section 619 of the EHA to allow states to use funds received under the preschool incentive grant program to provide special education and related services to handicapped children, birth to 3 years of age. It was not, however, the intent of the Congress that handicapped children from birth through 2 years of age be counted for purposes of reimbursement (U.S. House of Representatives, 1983).

Data Collection, Evaluations, Annual Report

Section 8 of P.L. 98-199 revised the data collection, evaluation, and annual reporting requirements under Section 618 of the EHA. In general the amendments refocus the evaluation effort on the overall impact of the entire Act rather than solely on the implementation of Part B.

Data Collection. While retaining many of the current requirements for data to be reported by SEAs and LEAs, P.L. 98-199 requires for the first time data on:

- The number of handicapped children and youth in each state receiving special education and related services, ages 12-17. Previously, data were only collected for three age groups: 3-5, 6-18, and 18-21.

- The number of handicapped children and youth exiting the education system each year (through program completion or otherwise) by disability category and age and the anticipated services that will be available to them during the following year.

- Lastly, states are to provide a description of the special education and related services needed to fully implement the Act, including estimates of the number of handicapped children and youth in need of improved services, and the type of programs and services in need of improvement.

Evaluation Priorities. Public Law 98-199 added a provision requiring publication of the proposed evaluation priorities in the Federal Register for review and comment no later than July 1 of each year. These proposed

priorities are also to be submitted to the appropriate House and Senate committees.

Cooperative Agreements with SEAs. Under this new authority the Secretary can enter into cooperative agreements with SEAs to conduct studies to assess the impact and effectiveness of programs assisted under the Act. Such studies are to be developed in consultation with the state advisory panel established under Part B and LEAs, as well as others involved in or concerned with the education of handicapped children. Sixty percent of the total cost of these studies would be borne by the federal government. The Secretary is also responsible for providing technical assistance to SEAs wishing to undertake such studies and for disseminating the results of the studies to SEAs and, as appropriate, other interested parties.

Required Studies. Section 618 of P.L. 98-199 also stipulates the following two studies:

- A longitudinal study to examine the educational progress of a sample of handicapped students while in special education and their occupational, educational, and independent living status after graduation or otherwise leaving special education.

- A study to compile data on state and local expenditures for special education and related services.

Annual Report. The Education of the Handicapped Act Amendments retains the requirement that the Secretary provide to the appropriate committees of the Congress an annual report on the progress being made toward the provision of a free, appropriate public education to all handicapped children and youth. New information to be contained in the report includes:

- An index and summary of each evaluation and study conducted.

- A compilation and analysis of data gathered from SEAs and LEAs.

- A description of findings and determinations resulting from monitoring reviews of State implementation of Part B of the Act.

- An analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services.

Other new provisions require (1) that the annual report for FY 1985 and for every third year thereafter include an index of projects funded under Parts C through F of the EHA as well as data required to be reported under various other individual programs authorized under EHA and (2) that the annual report be published and disseminated to the general education community.

CENTERS AND SERVICES TO MEET THE SPECIAL NEEDS OF THE HANDICAPPED

Section 10 of P.L. 98-199 amended Part C of the EHA. In addition to revising the authorities for a number of discretionary grant programs, the 1983 amendments added one new discretionary program to Part C (i.e., authorizing assistance for secondary education and transitional services) and greatly expanded the early education program to authorize a new program of grants to states for planning, developing, and implementing comprehensive services for handicapped children from birth through 5 years of age.

Regional Resource Centers

Over the years the focus of this program has changed according to the emerging needs of the field of special education. Initially, the Regional Resource Centers (RRCs) offered a variety of direct services to complement and supplement state and local efforts. After a period of encouraging state and local educational agencies to develop and implement exemplary programs and practices, the RRC program was focused in 1977 to assist states in implementing the requirements of P.L. 94-142 (U.S. Senate, 1983).

The 1983 reauthorizing legislation revised the focus of center services to require each RRC to provide consultation, technical assistance, and training to SEAs and through them to LEAs. Each center is required to:

- Identify and solve persistent problems in providing quality special education and related services.
- Develop and replicate successful programs and practices.
- Gather and disseminate information to all SEAs within the particular region as well as coordinate activities with other centers, including other relevant projects conducted by the Department of Education.
- Improve information dissemination to and training activities for professionals and parents of handicapped children.
- Provide a summary of materials produced or developed for inclusion in the annual report to the Congress.

Services for Deaf-Blind Children and Youth

In keeping with the Department of Education's plan to phase out the role of deaf-blind centers in providing direct services to deaf-blind children and youth, P.L. 98-199 amended Section 622 of the EHA to establish two new program authorities. These new authorities allow the Secretary to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations to assist SEAs:

- In providing deaf-blind children and youth with special education and related services such as vocational and transitional services.

- In making available to deaf-blind youth, upon attaining age 22, programs and services to facilitate their transition to other services.

In general, these programs are to give technical assistance to service providers, provide training to paraprofessionals and professionals, replicate successful innovative approaches to providing services, and facilitate parental involvement in the education of their deaf-blind children and youth. Programs for deaf-blind individuals under age 22 may also include evaluation of children, education programs, and counseling and training for families of deaf-blind children.

Public Law 98-199 additionally authorizes the Secretary to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

Programs supported with funds under this authority must report the number of deaf-blind children, youth, and individuals served by age, severity, and nature of deaf-blindness as well as the types of services provided for inclusion in the annual report to the Congress. The Secretary is responsible for determining the most accurate count of children and youth served under this as well as other federal programs. Lastly, the 1983 amendments direct the Secretary to disseminate materials and information concerning effective practices in working with deaf-blind children and youth.

Early Education for Handicapped Children

Model Demonstration Program. Except for a new provision clarifying that this program applies to handicapped children, birth through 8 years of age, the 1983 amendments reauthorize the experimental preschool and early education program without major changes. Such programs shall include activities and services designed to: (1) facilitate the intellectual, emotional, physical, mental, social, and language development of these children; (2) encourage the participation of their parents in the development and operation of any of the programs; and (3) acquaint the community to be served with the problems and potentialities of handicapped children.

State Planning, Development, and Implementation Grants. Public Law 98-199 adds a new authorization for a grant program to assist states in planning, developing, and implementing a comprehensive delivery system to provide special education and related services to handicapped children from birth through 5 years of age. At least 30 percent of the funds available under Section 623 of the EHA may be used by the Secretary for the following types of grants to states:

- Planning grants for up to 2 years to assess state needs and establish a procedure and design for the development of a state plan.

- Development grants for up to 3 years to develop a comprehensive state plan and gain approval of the plan from the appropriate state authority.

- Implementation grants for up to 3 years to implement and evaluate the comprehensive state plan.

Each application for a grant under this authority shall contain assurances and evidence that (1) the state agency receiving the grant will coordinate with other state agencies (including the SEA); (2) the state plan will address the special education and related services needs of all handicapped children, birth through 5 years of age, with special emphasis on children who are not now served; and (3) the state plan will be closely coordinated with the child identification efforts under Part B and the Preschool Incentive Grant program.

For purposes of the annual report to the Congress, the Secretary is required to include the following information: the states and state agencies receiving grants, the types of grants received, and the activities undertaken in each state. Beginning in 1986 the annual report must include a description of the status of special education and related services to handicapped children, birth through 5 years of age.

Based upon testimony indicating that technical assistance is of critical importance in determining whether states are able to develop the capacity to receive one of the grants and to make progress once they receive a grant (U.S. House of Representatives, 1983), P.L. 98-199 stipulates that not less than 10 percent of the funds available in any fiscal year for the new early childhood state plan initiative shall be used for technical assistance.

Research, Innovation, Training, and Dissemination Activities in Connection with Centers and Services

The 1983 amendments authorize the continuation of a wide range of activities to support research, training, and dissemination initiatives which complement and strengthen the other authorities under Part C.

To assure continuation of the program for severely handicapped children, a provision was added to authorize the Secretary to address the needs of the severely handicapped. Projects for the severely handicapped had been funded under Section 624 of the EHA since 1978.

Postsecondary Education Programs

The changes made to Section 625 of the EHA reflect the need to address the lifelong or continuing educational needs of all handicapped individuals. In keeping with this overall intent the title of this program was changed from

"regional" to "postsecondary" education programs. In addition to the four regional centers for the deaf, the Secretary is required to give priority consideration to model programs for individuals with handicapping conditions other than deafness for:

- Developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals.

- Coordinating, facilitating, and encouraging the education of handicapped individuals with their nonhandicapped peers.

Other notable amendments include: (1) the addition of SEAs as an eligible recipient (other recipients include institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies); (2) the addition of dissemination as an allowable activity; (3) the addition of continuing education as an allowable program; and (4) specification that "handicapped individuals" encompasses the same handicapping conditions as presently exist under the definition of "handicapped children."

Secondary Education and Transitional Services

In response to evidence indicating a need to strengthen and expand secondary special education opportunities and assist handicapped youth in the transition from secondary school to postsecondary education, employment, or other adult services (U.S. Senate, 1983), P.L. 98-199 established a new program initiative. The specific purpose of the new program is to: (1) strengthen and coordinate education, training, and related services for handicapped youth to assist in the transitional process to postsecondary education, vocational training, competitive employment, continuing education, or adult services; and (2) stimulate the improvement and development of secondary special education programs.

Activities that may be supported under this new authority (Section 626) include:

- Development of strategies and techniques for transition to independent living, vocational training, postsecondary education, and competitive employment.

- Demonstration models for vocational training, transitional services, and placement.

- Demographic studies of handicapped youth in need of transitional programs.

- Specially designed vocational programs to increase the potential for competitive employment.

- Research and demonstration projects to develop exemplary service delivery models and to replicate and disseminate information on successful models.

- Cooperative models between educational agencies and adult services agencies and employers to facilitate the planning and development of transitional services.

- Development of procedures to evaluate vocational training, placement, and transitional services.

To the extent appropriate, projects are to provide for the direct participation of handicapped students and parents in the planning, development, and implementaton of funded activities.

TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

Section 11 of P.L. 98-199, which amended Part D of the EHA, authorizes financial assistance for personnel training in special education (Section 631), SEA training (Section 632), and the recruitment of personnel and the dissemination of information on educational opportunities for the handicapped (Section 633). The 1983 amendments also authorize a program under Section 631 to provide training and information to parents of handicapped children and volunteers who work with parents.

Professional and Parent Training

Preservice. With respect to the important role Part D has played over the years and the continued need for a strong personnel preparation program, the House Committee on Education and Labor (1983) stated:

> The Committee recognizes that perhaps the most critical element in providing effective services to handicapped children is well prepared special education personnel. Without sufficient numbers of qualified personnel, the nation will always be a step away from the goal of Public Law 94-142, a free appropriate public education for all handicapped children. The Committee recognizes that personnel shortages continue to be a primary problem in many parts of the country.
>
> Programs under Part D have trained the majority of personnel in the field of special education, from classroom teachers to administrators, to university personnel. The value of Part D programs was particularly important after the passage of Public Law 94-142, when the need for significantly increased numbers of personnel was acute. (p. 30)

Under P.L. 98-199, grants, which may include scholarships with necessary stipends and allowances, are limited to institutions of higher education (IHEs) including university-affiliated facilities and the satellite network of the developmental disabilities program and other appropriate nonprofit agencies. In the awarding of grants preparing personnel for careers in special education, the Secretary is required to ensure that the training meets state and professionally recognized standards for the preparation of special education and related services personnel. The careers in special education that are eligible for support include:

- Special education teaching including speech, language, hearing impaired, and adaptive physical education.
- Related services to handicapped children and youth in educational settings.
- Special education supervision and administration.
- Special education research.
- Other personnel providing special services.

The 1983 amendments also afforded the Secretary the discretion to reserve up to five percent of the funds available for personnel training grants for the purpose of awarding contracts to respond to personnel needs in areas where shortages exist and which are inadequately addressed in an open grant competition. This particular provision was added to provide the Department with the authority and flexibility to respond to significant shortages in available personnel by type or geographical location (U.S. Senate, 1983).

Special Projects. In reaffirming the Department's longstanding practice of utilizing a portion of the funds available for training to support imaginative or innovative training approaches as well as the development of materials, the 1983 amendments authorize the Secretary to support special projects to develop and demonstrate new approaches for preservice and inservice training.

Parent Training and Information. The 1983 amendments also establish a separate grant competition for private, nonprofit organizations to provide training and information to parents of handicapped children and volunteers who work with parents to enable them to participate more effectively with professionals in meeting the educational needs of handicapped children. Congressional sponsors in the Senate believed such programs would reduce formal due process actions and litigation in special education (Congressional Record, 1983).

In addition to serving parents of children with the full range of handicaps, projects are required to include members of traditionally underrepresented groups (i.e., racial or ethnic minority groups) living in the area to be served by the project. Training and information projects must help

parents to: understand the nature of their children's handicapping condition, provide followup support for their children's educational services, communicate more effectively with professionals, participate in educational decisions relating to their child, obtain information about available resources, and understand the provisions of P.L. 94-142.

In order to be eligible to receive a grant, the nonprofit organization must be governed by a board of directors, the majority of which must be parents of handicapped children. Special education and related services professionals are to be among the remaining board members. Organizations lacking such a board can be eligible if they have a membership that represents the interests of the handicapped and establish a "special governing committee," with a membership similar to that required for the board, to operate the training and information project.

Grantees are required to consult with agencies that serve or assist handicapped children and youth located in the area served by the project. Moreover, the presence or absence of a parent training program in a given area "is not intended to relieve the local educational agency of its responsibilities under Part B to ensure that all parents are provided with the necessary information to be informed participants in the special education process" (U.S. House of Representatives, 1983, p.31).

SEA Training

Public Law 98-199 retains the authorization for the Secretary to make grants to SEAs for establishing and maintaining training programs for teachers of handicapped children or their supervisors.

Recruitment and Information

While the basic purposes of this program remained essentially the same, the 1983 amendments made several important changes to Section 632 of the EHA with respect to postsecondary education and the creation of two national clearinghouses. Under P.L. 98-199 the Secretary is authorized to establish a "national clearinghouse on the education of the handicapped" to:

- Disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties about (1) federal programs for the handicapped and (2) participation in such programs, including referral to appropriate national, state, and local agencies and organizations for further assistance.
- Encourage students and professionals to seek and obtain careers and employment in the various fields relating to the education of handicapped children and youth.
- Provide information on postsecondary education opportunities for the handicapped.

Additionally, the Secretary is required to provide fiscal support for a "national clearinghouse on postsecondary education for handicapped individuals" to provide information on available services and programs.

In making awards under this section, the Secretary must give particular attention to an applicant's demonstrated national experience in the education of the handicapped as well as their ability to conduct such projects, communicate with the intended consumers of information, and maintain communication with other agencies and organizations.

Part D Reporting Requirements

In order to furnish more timely information about personnel needs in special education, Public Law 98-199 amended Section 635 of the EHA to specify in greater detail the type of data reported to the Department. Recipients of grants or contracts must annually report on the number of individuals trained according to category and level of training and the number of individuals receiving degrees and certification according to category and level of training. A summary of this data must be included in the annual report to the Congress.

RESEARCH

Section 12 of P.L. 98-199 made a number of significant changes to Part E of the EHA, which has served as the primary authority of research and demonstration assistance under the Act.

Research and Demonstration Projects

Following the enactment of P.L. 94-142 many of the resources available under the research authority of Part E were directed toward the implementation and evaluation of the law (U.S. House of Representatives, 1983). The 1983 amendments make it clear, however, that the essential and overriding mission of research should be on improving the quality of special education provided to all handicapped children. Under the new legislation, research and related activities shall be designed to increase the knowledge and understanding of handicapping conditions, teaching, learning, and education-related practices and services. Such activities include, but are not limited to: development of new and improved teaching techniques and devices, development of curricula, application of new technologies and knowledge for improving instuction, development of program models and exemplary practices in special education, and dissemination of information on research and related activities.

The 1983 amendments also impose some strict procedural and informational requirements that must be followed by the Department. The Secretary is required to publish proposed research priorities in the Federal Register every 2 years. The public comment period is to be 60 days and the final research

priorities are to be published within 30 days after the close of the comment period. Research priorities must be coordinated with those established by the National Institute of Handicapped Research, and the Secretary must inform the National Council on the Handicapped and the National Advisory Committee on the Education of Handicapped Children and Youth about the research priorities. Reports of research projects are to be made available to the education community and other interested parties and the annual report to the Congress is to contain an index of all research projects (title of project and name and address of organization) conducted in the prior fiscal year.

Research and Demonstration Projects in Physical Education and Recreation

The 1983 amendments retained the existing authority for research and demonstration in physical education and recreation for the handicapped.

Panel of Experts

Under previous law, panels were required to review research and demonstration proposals only under Part E and the composition of the panels was not specified. Section 643 of the EHA as amended by P.L. 98-199 requires the Secretary to secure the advice and recommendations of one panel of experts before amending any grant or contract under Parts C, D, and F of the Act, as well as E. Moreover, the panel must be composed of individuals from special education and related fields with significant expertise and experience in content areas and age levels addressed in the proposals. Where appropriate, handicapped individuals and parents are to be included on the panels.

INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

While the 1983 legislation did not amend any of the provisions (i.e., captioned films, instructional media, media centers) authorized under sections 651, 652, and 653 of the EHA, Section 13 of P.L. 98-199 revised the authorized appropriations for this program.

SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

Section 14 of P.L. 98-199 repealed Part G of the EHA which authorized research, training, and centers in he area of learing disabilities. The House Education and Labor Committee (1983) indicated the reasons for the repeal of this provision:

> ...the 1977 amendments did not reauthorize appropriations for Part G because the definition of "handicapped children" was amended to include "children with learning disabilities."

Repealing Part G merely finalizes the action that was taken in 1977. Grantees with projects addressing the needs of specific learning disabled children are able to apply for funds under any of the discretionary programs authorized by the Act. (p. 34)

AUTHORIZATIONS OF APPROPRIATIONS

Public Law 98-199 also extended the fiscal authorizations for all of the EHA discretionary programs through fiscal year 1986 (Table 5). The Act also authorized $200,000 for the operation of the National Advisory Committee on the Education of the Handicapped.

Table 5

Authorized Appropriations

EHA Program	Fiscal Year 1984	1985	1986
Evaluations/Special Studies	$ 3,100,000	$ 3,270,000	$ 3,440,000
Regional Resource Centers	5,700,000	6,000,000	6,300,000
Deaf-Blind Programs	15,000,000	15,000,000	15,000,000
Early Childhood Education	26,000,000	27,100,000	28,300,000
Severely Handicapped Projects	5,000,000	5,300,000	5,600,000
Postsecondary Education	5,000,000	5,300,000	5,500,000
Secondary Education and Transitional Services	6,000,000	6,330,000	6,660,000
Personnel Development	58,000,000	61,150,000	64,370,000
Recruitment and Information	1,000,000	1,050,000	1,110,000
Innovation and Development	20,000,000	21,100,000	22,200,000
Media Services and Captioned Films	19,000,000	20,000,000	21,100,000

REFERENCES

Congressional Record. (1983, November 18). Remarks of Senator Jennings Randolph, p. S16831. Washington DC: U.S. Government Printing Office.

U.S. Congress Public Law 98-199, Education of the Handicapped Act Amendments of 1983 (December 2, 1983), 20 U.S.C. 1401.

U.S. House of Representatives, Committee on Education and Labor. (1983). Report Accompanying the Education of the Handicapped Act Amendments of 1984, H.R. 3435 (H.R. Rept. No. 98-410). Washington DC: U.S. Government Printing Office.

U.S. Senate, Committee on Labor and Human Resources. (1983). Report Accompanying the Education of the Handicapped Act Amendments of 1983, S. 1341 (Senate Rept. No. 98-191). Washington DC: U.S. Government Printing Office.

CHAPTER III

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1983

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[P.L. 91-230, April 13, 1970, 84 Stat. 121; as amended by P.L. 93-380, August 21, 1974, 88 Stat. 580, by P.L. 94-142, November 29, 1975, 89 Stat. 773, by Pub. L. 95-561, November 1, 1978, 92 Stat. 2364, and by Pub. L. 98-199, December 2, 1983, 97 Stat. 1357.]

SUBCHAPTER I—GENERAL PROVISIONS

§ 1400. Congressional statements and declarations

Short title

(a) This chapter may be cited as the "Education of the Handicapped Act."

Findings

(b) The Congress finds that—

(1) there are more than eight million handicapped children in the United States today;

(2) the special educational needs of such children are not being fully met:

(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

Purpose

(c) It is the purpose of this chapter to assure that all handicapped children have available to them, within the time periods specified in Section 1412(2)(B) of this title, a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.

Pub. L. 91-230, Title VI, § 601, Apr. 13, 1970, 84 Stat. 175, amended by Pub. L. 94-142, § 3(a), Nov. 29, 1975, 89 Stat. 774 [reclassified as § 1400 in 1981].

§ 1401. Definitions

(a) As used in this chapter—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities, who by reason thereof require special education and related services.

EHLR EDITORIAL NOTE: Study of Behaviorally Disordered

Section 17 of Pub. L. 98-199, directs the Secretary to conduct a review and evaluation of the term "behaviorally disordered" and submit a report of that review and evaluation to the Congress within six months of the effective date of the law. This section of the public law will not be codified in the U.S. Code; however, it is reproduced here for reference purposes.

SEC. 17. (a)(1) The Secretary of Education shall either directly or by grant or contract, conduct a review and evaluation of the term "behaviorally disordered" as the use of such term relates to handicapped children, as defined in section 602(a)(1) of the Education of the Handicapped Act.

(2) The review and evaluation under this section shall involve the active participation of the parents of handicapped children.

(b)(1) Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Congress, for referral to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report of the review and evaluation required by this section, together with a detailed proposal for any legislation necessary to implement the recommendations of such review and evaluation.

(2) The report required under paragraph (1) shall include—

(A) the number of seriously emotionally disturbed children currently being served under the Education of the Handicapped Act, and the anticipated number of children and youth (by type of condition) in special and regular education who would be served under the Education of the Handicapped Act if the definition is changed;

(B) how the population of children currently served under such Act as "seriously emotionally disturbed" may be changed (particularly in terms of the severity of disability) if the term "behaviorally disordered" is substituted for the term "seriously emotionally disturbed";

(C) how a change in terminology will impact on the identification, assessment, types of special education and related services provided, and the availability of such services, if the change in terminology is made;

(D) how the settings in which special education and related services are provided may change if the change in terminology is made;

(E) how the change in terminology may affect the attitudes of, and the relationships among, parents, professionals, and children and youth;

(F) how the change in terminology will impact upon the training of professional personnel providing services under such Act; and

(G) a number of examples of seriously emotionally disturbed children who are currently effectively and ineffectively served.

(c) The Secretary is authorized to use funds appropriated for purposes of Part E of the Education of the Handicapped Act to carry out the purposes of this section.

(3).[*] The term "Advisory Committee" means the National Advisory Committee on the Education of Handicapped Children.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this chapter; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other

* Former subsection (a)(2) was deleted; however, subsections (a)(3) — (a)(22) were not renumbered.

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public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however*, That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Education.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

(18) The term "free appropriate public education" means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title.

(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such

child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(20) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this subchapter or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this subchapter or under such titles.

(21) The term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act.

(22) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to handicapped children within that State.

(b) For purposes of part C of this title, "handicapped youth" means any handicapped child (as defined in section 602(a)(1)) who—

(1) is twelve years of age or older; or

(2) is enrolled in the seventh or higher grade in school.

NOTE: (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of enactment of this Act.

(b)(1) To the extent that the amendments made by this Act to parts C, D, E, and G of the Education of the Handicapped Act prohibit or limit the use of funds, such amendments shall apply only to funds obligated after the date of enactment of this Act.

(2) As determined necessary by the Secretary of Education for purposes of providing services under the Education of the Handicapped Act pending the issuance of regulations implementing the amendments made by this Act, the Secretary shall provide financial assistance under parts C, D, E, and G of the Act as in effect on the day before the date of enactment of this Act until issuance of such regulations or March 1, 1984, whichever is earlier.

Pub. L. 91-230, Title VI, § 602, Apr. 13, 1970, 84 Stat. 175; amended by Pub. L. 94-142, § 4(a), Nov. 29, 1975, 89 Stat. 775, and by Pub. L. 98-199, § 2, Dec. 2, 1983, 97 Stat. 1357.

§ 1402. Office of Special Education Programs

(a) There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this Act and other programs and activities concerning the education and training of the handicapped.

(b)(1) The office established under subsection (a) shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in grade GS-18 of the General Schedule under section 5104 of title 5, United States Code, and shall be a Senior Executive Service position for the purposes of section 3182(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of the Associate Deputy Assistant Secretary. Each such position shall be in grade GS-15 of the General Schedule under section 5104 of title 5, United States Code."

Pub. L. 91-230, Title VI, § 603, Apr. 13, 1970, 84 Stat. 177; amended by Pub. L. 93-380, Title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579, and by Pub. L. 98-199, § 3(a), Dec. 2, 1983, 97 Stat. 1357.

§ 1403. National Advisory Committee on Handicapped Children and Youth

(a) The Secretary shall establish in the Department of Education a National Advisory Committee on the Education of Handicapped Children and Youth, consisting of fifteen members, appointed by the Secretary. Not less than five such members shall be parents of handicapped children and the remainder shall be handicapped persons (including students), persons affiliated with education, training, or research programs for the handicapped, and those having demonstrated a commitment to the education of handicapped children.

(b) The Advisory Committee shall review the administration and operation of the programs authorized by this Act and other provisions of law administered by the Secretary with respect to handicapped children (including the effect of such programs in improving the educational attainment of such children) and make recommendations for the improvement of such programs. Such recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee may make such recommendations to the Secretary as the Committee considers appropriate and shall make an annual report of its findings and recommendations to the Secretary not later than June 30 of each year. The Secretary shall transmit each such report, together wth comments and recommendations, to the Congress.

(c) There are authorized to be appropriated for the purposes of this section $200,000 for fiscal year 1984, and for each of the two succeeding fiscal years.

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Pub. L. 91-230, Title VI, § 604, Apr. 13, 1970, 84 Stat. 177; amended by Pub. L. 93-380, Title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-273, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378, and by Pub. L. 98-199, § 4, Dec. 2, 1983, 97 Stat. 1358.

§ 1404. Acquisition of equipment and construction of necessary facilities

Authorization for use of funds

(a) In the case of any program authorized by this chapter, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, he may authorize the use of such funds for such purposes.

Recovery of payments under certain conditions

(b) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this chapter the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

Pub. L. 91-230, Title VI, § 605, Apr. 13, 1970, 84 Stat. 177.

§ 1405. Employment of handicapped individuals

The Secretary shall assure that each recipient of assistance under this chapter shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this chapter.

Pub. L. 91-230, Title VI, § 606, as added Pub. L. 94-142, § 6(a), Nov. 29, 1975, 89 Stat. 795.

§ 1406. Grants for the removal of architectural barriers

(a) The Secretary is authorized to make grants and to enter into cooperative agreements with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act approved August 12, 1968 (Public Law 90-480), relating to architectural barriers.

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

Pub. L. 91-230, Title VI, § 607, as added by Pub. L. 94-142, § 6(a), Nov. 29, 1975, 89 Stat. 795, and amended by Pub. L. 98-199, § 5, Dec. 2, 1983, 97 Stat. 1358.

§ 1407. Requirements for prescribing regulations

(a) For purposes of complying with section 431(b) of the General Education Provisions Act with respect to regulations promulgated under part B of this Act, the thirty-day period under such section shall be ninety days.

(b) The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to handicapped children under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at IEP meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(c) The Secretary shall transmit a copy of any regulations promulgated under this Act to the National Advisory Committee on the Education of the Handicapped concurrently with publication in the Federal Register.

Added by Pub. L. 98-199, § 6, Dec. 2, 1983, 97 Stat. 1359.

SUBCHAPTER II — ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

§ 1411. Entitlements and allocations

Formula for determining maximum State entitlement

(a)(1) Except as provided in paragraph (3) and in section 1419 of this title, the maximum amount of the grant to which a State is entitled under this subchapter for any fiscal year shall be equal to—

(A) the number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services;

multiplied by—

(B)(i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this subchapter for the fiscal year ending September 30, 1977.

(2) For the purposes of this subsection and subsection (b) through subsection (e) of this section, the term "State" does not include Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) for purposes of paragraph (1)(B), the term "average per pupil expenditure", in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) handicapped children in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such state; and

(ii) handicapped children who are counted under section 241c-1 of this title.

(B) For purposes of subparagraph (A), the number of children aged five to seventeen, inclusive, in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

Distribution and use of grant funds by States for fiscal year ending September 30, 1978

(b)(1) Of the funds received under subsection (a) of this section by any State for the fiscal year ending September 30, 1978—

(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) of this section to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 1412(3) of this title.

(2) Of the funds which any State may use under paragraph (1)(A)—

(A) an amount which is equal to the greater of—

(i) 5 per centum of the total amount of funds received under this subchapter by such State; or

(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 1412 and 1413 of this title;

(B) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 1412(3) of this title.

Distribution and use of grant funds by States for fiscal years ending September 30, 1979, and thereafter

(c)(1) Of the funds received under subsection (a) of this section by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) except as provided in paragraph (3), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) of this section to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 1412(3) of this title.

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

(I) 5 per centum of the total amount of funds received under this subchapter by such State; or

(II) $300,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 1412 and 1413 of this title; and

(ii) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 1412(3) of this title.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 1413(a)(9) of this title shall not apply with respect to amounts available for use by any State under paragraph 2.

(4)(A). No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d) of this section, to less than $7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such

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funds which meets the requirements of section 1414 of this title.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to handicapped children residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

Allocation of funds within States to local educational agencies and intermediate educational units

(d) From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, each local educational agency and intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, as the number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this subchapter.

Territories and possessions

(e)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate amounts available to all States under this subchapter for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the proceeding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of such jurisdictions shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount alloted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

Indian reservations

(f)(1) The Secretary is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this subchapter for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under this subsection only after submitting to the Secretary an application which meets the applicable requirements of section 1414(a) of this title and which is approved by the Secretary. The provision of section 1416 of this title shall apply to any such application.

Reductions or increases

(g)(1) If the sums appropriated for any fiscal year for making payments to States under this subchapter are not sufficient to pay in full the total amounts which all States are entitled to receive under this subchapter for such fiscal year, the maximum amounts which all States are entitled to receive under this subchapter for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d) of this section, which it estimates that it will expend in accordance with the provisions of this subchapter. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this subchapter, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies and intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

Pub. L. 91-230, Title VI, § 611, Apr. 13, 1970, 84 Stat. 178; amended by Pub. L. 93-380, Title VI, §§ 614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94-142, §§ 2(a)(1)-(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794; Pub. L. 96-270, § 13, June 14, 1980, and by Pub. L. 98-199, § 15, Dec. 2, 1983, 97 Stat. 1357.

§ 1412. Eligibility requirements

In order to qualify for assistance under this subchapter in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 1413(b) of this title in effect prior to November 29, 1975, and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 1417(c) of this title; and

(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Secretary.

(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 1414(a)(5) of this title.

(5) The State has established (A) procedural safeguards as required by section 1415 of this title, (B) procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 1413 of this title.

Pub. L. 91-230, Title VI, § 612, Apr. 13, 1970, 84 Stat. 178; amended by Pub. L. 92-318, Title IV, § 421(b)(1)(C), June 23, 1972, 86 Stat. 341; Pub. L. 93-380, Title VI §§ 614(b), (f)(1), 615(a), Title VIII, § 843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; and by Pub. L. 94-142, §§ 2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774. 780.

§ 1413. State plans

Requisite features

(a) Any State meeting the eligibility requirements set forth in section 1412 of this title and desiring to participate in the program under this subchapter shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this subchapter will be expended in accordance with the provisions of this sub-

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chapter, with particular attention given to the provisions of sections 1411(b), 1411(c), 1411(d), 1412(2) and 1412(3) of this title;

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 241c-1 of this title, section 844a(b)(8) of this title or its successor authority, and section 1262(a)(4)(B) of this title, under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) set forth, consistent with the purposes of this chapter, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the in-service training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this chapter are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this subchapter by providing for such children special education and related services; and

(B) that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this subchapter) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this subchapter for services to any child who is determined to be erroneously classified as eligible to be counted under section 1411(a) or 1411(d) of this title;

(6) provide satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property;

(7) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out his functions under this subchapter, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this subchapter;

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under this subchapter (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

(10) provide consistent with procedures prescribed pursuant to section 1417(a)(2) of this title, satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 1417 of this title; and

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments

publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this subchapter, and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under section 1418 of this title.

Additional assurances

(b) Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) of this section as are contained in section 1414(a) of this title, except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 1414(a) of this title.

Notice and hearing prior to disapproval of plan

(c) The Secretary shall approve any State plan and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 1412 of this title; and

(2) meets the requirements of subsection (a) and subsection (b) of this section.

The Secretary shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

Participation of handicapped children in private schools

(d)(1) If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of handicapped children enrolled in private elementary and secondary schools as required by subsection (a)(4), the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a)(4).

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this part to all handicapped children enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Pub. L. 91-230, Title VI, § 613, Apr. 13, 1970, 84 Stat. 179; amended by Pub. L. 93-380, Title VI, §§ 614(c), (d), 615(b), (c), Title VIII, § 843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94-142, §§ 2(b)(3), 5(a), Nov. 29, 1975, 89 Stat. 774, 782, and by Pub. L. 98-199, § 7, Dec. 2, 1983, 97 Stat. 1359.

§ 1414. Application

Requisite features

(a) A local educational agency or an intermediate educational unit which desires to receive payments under section

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1411(d) of this title for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this subchapter will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are handicapped, regardless of the severity of their handicap, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

(B) establish policies and procedures in accordance with detailed criteria prescribed under section 1417(c) of this title;

(C) establish a goal of providing full educational opportunities to all handicapped children, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 1413(a)(3) of this title;

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all handicapped children, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 1412(5)(B) of this title, the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that (A) the control of funds provided under this subchapter, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this subchapter (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this subchapter;

(3)(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of handicapped children participating in programs carried out under this subchapter; and

(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluation and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provision of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title; and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 1412(5)(B), 1412(5)(C), and 1415 of this title.

Approval by State educational agencies of applications submitted by local educational agencies or intermediate educational units; notice and hearing

(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application meets the requirements of subsection (a) of this section, except that no such application may be

approved until the State plan submitted by such State educational agency under subsection (a) of this section is approved by the Secretary under section 1413(c) of this title. A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) of this section if the State educational agency determines that such application does not meet the requirements of subsection (a) of this section.

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate educational unit under section 1420 of this title until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a) of this section.

(B) The provisions of the last sentence of section 1416(a) of this title shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 1415 of this title which is adverse to the local educational agency or intermediate educational unit involved in such decision.

Consolidated applications

(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to recieve payments because of the application of section 1411(c)(4)(A)(i) of this title or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 1411(d) of this title if an individual application of any such local educational agency has been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 1412 and section 1413(a) of this title and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this subchapter.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this subchapter, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

Special education and related services provided directly by State educational agencies; regional or State centers

(d) Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a) of this section;

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special educational and related services directly to handicapped children residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this subchapter.

Reallocation of funds

(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 1411(d) of this title, to such other local educational agencies within the State as are not adequately providing special

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education and related services to all handicapped children residing in the areas served by such other local educational agencies.

Programs using State or local funds

(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii) of this section, any local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law shall be entitled to receive payments under section 1411(d) of this title for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

Pub. L. 91-230, Title VI, § 614, Apr. 13, 1970, 84 Stat. 181; amended by Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 784.

§ 1415. Procedural safeguards

Establishment and maintenance

(a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

Required procedures; hearing

(b)(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, available, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

Review of local decision by State educational agency

(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

Enumeration of rights accorded parties to hearings

(d) Any party to any hearing conducted pursuant to subsections (b) and (c) of this section shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the advisory panel established pursuant to section 1413(a)(12) of this title).

Civil action; jurisdiction

(e)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) of this section shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) of this section shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) of this section who does not have the right to an appeal under subsection (c) of this section, and any party aggrieved by the findings and decision under subsection (c) of this section, shall have the right to bring a civil action with respect to the complaint presented pursuant to this

section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

(4) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

Pub. L. 91-230, Title VI, § 615, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 788.

§ 1416. Withholding of payments; judicial review

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 1412 or section 1413 of this title, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this subchapter or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan,

the Secretary (A) shall, after notifying the State educational agency, withhold any further payments to the State under this subchapter, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Secretary withholds further payments under clause (A) or clause (B) he may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this subchapter, as specified in clause (1) or clause (2), no further payments shall be made to the State under this subchapter or under the Federal programs specified in section 1413(a)(2) of this title within his jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this subchapter shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 1413 of this title, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of Title 28.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

Pub. L. 91-230 Title VI, § 616, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 789.

§ 1417. Administration

Duties of Secretary

(a)(1) In carrying out his duties under this subchapter, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this subchapter;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

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(D) assure that each State shall, within one year after November 29, 1975, provide certification of the actual number of handicapped children receiving special education and related services in such State.

(2) As soon as practicable after November 29, 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this subchapter in order to assure equity among the States.

Rules and regulations

(b) In carrying out the provisions of this subchapter, the Secretary (and the Secretary, in carrying out the provision of subsection (c) of this section)* shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

Protection of rights and privacy of parents and students

(c) The Secretary shall take appropriate action, in accordance with the provisions of section 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this subchapter.

Hiring of qualified personnel

(d) The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 1418 of this title and to carry out his duties under subsection (a)(1) of this section without regard to the provisions of Title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

Pub. L. 91-230, Title VI, § 617, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 791.

§ 1418. Evaluation

(a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts to provide free appropriate public education to all handicapped children and youth; and

(2) to provide Congress with information relevant to policy-making and provide Federal, State, and local educational agencies with information relevant to program management, administration, and effectiveness with respect to such education.

(b) In carrying out the responsibilities under this section, the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act, and under other Federal laws relating to the education of handicapped children and youth, and such additional information, from State and local educational agencies and other appropriate sources, as is necessary for the implementation of this Act including—

(1) the number of handicapped children and youth in each State receiving a free appropriate public education (special education and related services) by disability category and by age group (3-5, 6-11, 12-17, and 18-21);

(2) the number of handicapped children and youth in each State who are participating in regular educational programs, by disability category (consistent with the requirements of section 612(5)(B) and section 614(a)(1)(C)(iv)), and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who have been otherwise removed from the regular education environment;

(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise, by disability category and age, and anticipated services for the next year;

(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services (which may be based upon a sampling of data from State agencies including State and local educational agencies);

(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act; and

(6) a description of the special education and related services needed to fully implement the Act throughout each State, including estimates of the number of handicapped children and youth within each disability by age group (3-5, 6-11, 12-17, and 18-21) in need of improved services and the type of programs and services in need of improvement.

(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

(d)(1) The Secretary is authorized to enter into cooperative agreements with State educational agencies to carry out

* So in original; probably should read: "In carrying out the provisions of this subchapter and of subsection (c) of this section, the Secretary shall issue, . . ."

studies to assess the impact and effectiveness of programs assisted under the Act.

(2) Such agreements shall—

(A) provide for the payment of not to exceed 60 per centum of the total cost of studies conducted by a participating State educational agency to assess the impact and effectiveness of programs assisted under the Act; and

(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth.

(3) The Secretary shall provide technical assistance to participating State educational agencies in the implementation of the study design, analysis, and reporting procedures.

(4) In addition, the Secretary shall disseminate information from such studies to State educational agencies, and as appropriate, others involved in, or concerned with the education of handicapped children and youth.

(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

(2) At least one study shall focus on obtaining and compiling current information available through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services), and gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

(f)(1) Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth. The annual report is to be transmitted to the appropriate committees of each House of Congress and the National Advisory Committee on the Education of Handicapped Children and Youth, and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

(2) The Secretary shall include in each annual report—

(A) an index and summary of each evaluation activity and results of studies conducted under subsection (c);

(B) a compilation and analysis of data gathered under subsection (b);

(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act;

(D) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services;

(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities; and

(F) any recommendations for change in the provision of this Act or any other Federal law providing support for the education of handicapped children and youth.

(3) In the annual report for fiscal year 1985 (published in 1986) and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under parts C through F of this Act; and

(B) data reported under sections 621, 622, 623, 627, 634, 641, and 653.

(g) There are authorized to be appropriated $3,100,000 for fiscal year 1984, $3,270,000 for fiscal year 1985, and $3,440,000 for fiscal year 1986 to carry out the provisions of this section.

Pub. L. 91-230, Title VI, § 618, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 791, and amended Pub. L. 98-199, § 8, Dec. 2, 1983, 97 Stat. 1360.

§ 1419. Incentive grants

Authority to make grants

(a) The Secretary shall make a grant to any State which—

(1) has met the eligibility requirements of section 1412 of this title;

(2) has a State plan approved under section 1413 of this title; and

(3) provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of section 1411(a)(1)(A) of this title.

The maximum amount of the grant for each fiscal year which a State may receive under this section shall be $300 for each such child in that State.

Application

(b) Each State which—

(1) has met the eligibility requirements of section 1412 of this title,

(2) has a State plan approved under section 1413 of this title, and

(3) desires to receive a grant under this section,

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shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Payment

(c) The Secretary shall pay to each State having an application approved under subsection (b) of this section the amount to which the State is entitled under this section, which amount shall be used for the purpose of providing the services specified in clause (3) of subsection (a) of this section and for providing special education and related services for handicapped children from birth to three years of age.

Ratable reduction or increase of payments

(d) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the maximum amounts which all States may receive under this subchapter for such fiscal year, the maximum amounts which all States may receive under this subchapter for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

Authorization of appropriations

(e) In addition to the sums necessary to pay the entitlements under section 1411 of this title, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

Pub. L. 91-230, Title VI, § 619, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 793, and amended by Pub. L. 98-199, § 9, Dec. 2, 1983, 97 Stat. 1363.

§ 1420. Payments

(a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this subchapter. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this subchapter after the State educational agency has approved applications of such agencies or units for payments in accordance with section 1414(b) of this title.

(b) Payments under this subchapter may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

Pub. L. 91-230, Title VI, § 620, as added Pub. L. 94-142, § 5(a), Nov. 29, 1975, 89 Stat. 793.

SUBCHAPTER III — CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED

§ 1421. Regional resource centers

(a) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, institutions of higher education, private nonprofit organizations, State educational agencies, or combinations of such agencies and institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State agencies to local educational agencies. Each center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education and related services for handicapped children and youth;

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to handicapped children and youth and their families;

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this section and other relevant projects conducted by the Department of Education; and

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped children.

(b) In determining whether to approve an application for a project under this section, the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

(c) Each regional resource center shall report a summary of materials produced or developed and this information shall be included in the annual report to Congress required under section 1418.

Pub. L. 91-230, Title VI, § 621, Apr. 13, 1970, 84 Stat. 181; amended by Pub. L. 98-199, §§ 621, Dec. 2, 1983, 97 Stat. 1357 and by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1363.

§ 1422. Services for deaf-blind children and youth

(a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies to—

(A) assure deaf-blind children and youth provision of special education and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth upon attaining the age of twenty-two, programs and services to facilitate their transition from educational to other services.

(2) A grant, cooperative agreement, or contract pursuant to paragraph (1)(A) may be made only for programs providing (A) technical assistance to agencies, institutions, or organizations providing educational services to deaf-blind children or youth; (B) preservice or inservice training to

paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth; (C) replication of successful innovative approaches to providing educational or related services to deaf-blind children and youth; and (D) facilitation of parental involvement in the education of their deaf-blind children and youth. Such programs may include—

(i) the diagnosis and educational evaluation of children and youth at risk of being certified deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind children and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind children and youth.

(3) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations serving, or proposing to serve, deaf-blind individuals who have attained age twenty-two years; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, semi-supervised, or independent living programs.

(4) In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved.

(b) The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

(c)(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; and (C) the types of services provided.

(2) The Secretary shall examine the numbe of deaf-blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under part B of this Act and subpart 2 of part B, title I, of the Elementary and Secondary Education Act of 1965 (as modified by chapter I of the Education Consolidation and Improvement Act of 1981); and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

(d) The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth.

Pub. L. 91-230, Title VI, § 622, Apr. 13, 1970, 84 Stat. 182; amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1364.

§ 1423. Early education for handicapped children

(a)(1) The Secretary is authorized to arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of programs of experimental preschool and early education for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such program; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.

(2) Programs authorized by this subsection shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served.

(3) As much as is feasible, such programs shall be geographically dispersed throughout the Nation in urban as well as rural areas.

(4) No arrangement pursuant to this subsection shall provide for the payment of more than 90 per centum of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services.

(5) For purposes of this subsection the term "handicapped children" includes children from birth through eight years of age.

(b)(1) Subject to paragraph (2), the Secretary is authorized to make a grant to each State through the State educational agency or other State agency to assist such State agency in planning, developing, and implementing a comprehensive delivery system for the provision of special education and related services to handicapped children from birth through five years of age.

(2) The Secretary shall make one of the following types of grants (authorized under paragraph (1)) to any State which submits an application which meets the requirements of this subsection:

(A) Planning Grant — A grant for a maximum of two years for the purpose of assessing needs within the State and establishing a procedure and design for the development of a State plan which includes parent participation and training of professionals and others.

(B) Development Grant — A grant for a maximum of three years for the purpose of developing a comprehensive State plan, and gaining approval of this plan from the State Board of Education, the Commissioner of Education, or other designated official of the appropriate State agency.

(C) Implementation Grant — A grant for a maximum of three years for the purpose of implementing and evaluating

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the comprehensive State plan. A State must apply for annual renewal of such grant.

(3) Each State educational agency or other State agency desiring to receive a grant under this subsection shall submit an application at such time, in such manner, and accompanied by such information as the Secretary considers necessary. Each such application shall contain assurances and evidence that:

(A) The State agency receiving the grant will coordinate with other appropriate State agencies (including the State educational agency) in carrying out the grant.

(B) The State plan will address the special education and related service needs of all handicapped children from birth through five years of age with special emphasis on children who are often not identified and children who are not now served.

(C) The State plan will be closely coordinated with child-find efforts under section 612(2)(C) and with preschool incentive grant activities under section 619 of this Act.

(4) The Secretary shall include in the annual report under section 618 of this Act the following:

(A) The States and State agencies receiving grants under this subsection and the types of grants received.

(B) A description of the activities in each State being undertaken through grants under this subsection.

(C) Beginning in 1986, in consultation with the National Council for the Handicapped and the National Advisory Committee on the Education of Handicapped Children and Youth, a description of the status of special education and related services to handicapped children from birth through five years of age (including those receiving services through Head Start, Developmental Disabilities Program, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).

(c)(1) Not less than 30 per centum of the funds made available in any year for the purposes of this section may be used for purposes of subsection (b).

(2) Not less than 10 per centum of the funds made available in any year for the purposes of subsection (b) shall be available for the provision of training and technical assistance to States preparing to receive or receiving grants under this section.

Pub. L. 91-230, Title VI, § 643, Apr. 13, 1970, 84 Stat. 183; amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1365.

§ 1424. Research, innovation, training, and dissemination activities in connection with centers and services for handicapped

(a) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with such organizations or institutions, as are determined by the Secretary to be appropriate, consistent with the purposes of this part, for—

(1) research to identify and meet the full range of special needs of handicapped children and youth;

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of handicapped children and youth;

(3) training of personnel for programs specifically designed for handicapped children; and

(4) dissemination of materials and information about practices found effective in working with such children and youth.

(b) In making grants and contracts under this section, the Secretary shall ensure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

(c) In carrying out the provisions of this section the Secretary is authorized to address the needs of the severely handicapped.

Pub. L. 91-230, Title VI, § 624, Apr. 13, 1970, 84 Stat. 183; amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1366.

§ 1424a. Postsecondary education programs

(a)(1) The Secretary is authorized to make grants to or enter into contracts with State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

(2) In making grants or contracts on a competitive basis under this section, the Secretary shall give priority consideration to the four regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals; and

(B) for programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

(3) Of the sums made available for programs under this section, not less than $2,000,000 shall first be available for the four regional centers for the deaf.

(b) For the purposes of this section the term "handicapped individuals" means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedi-

cally impaired, or other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services.

Pub. L. 91-230, Title VI, § 625, as added Pub. L. 93-380, Title VI, § 616, Aug. 21, 1974, 88 Stat. 584, and amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1367.

§ 1425. Secondary education and transitional services for handicapped youth

(a) The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (Public Law 97-300)) to—

(1) strengthen and coordinate education, training, and related services for handicapped youth to assist in the transitional process to postsecondary education, vocational training, competitive employment, continuing education, or adult services; and

(2) stimulate the improvement and development of programs for secondary special education.

(b) Projects assisted under this section may include—

(1) developing strategies and techniques for transition to independent living, vocational training, postsecondary education, and competitive employment for handicapped youth;

(2) establishing demonstration models for services and programs which emphasize vocational training, transitional services, and placement for handicapped youth;

(3) conducting demographic studies which provide information on the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs;

(4) specially designed vocational programs to increase the potential for competitive employment for handicapped youth;

(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models;

(6) initiating cooperative models between educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education, and adult services; and

(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth.

(c) For purposes of subsections (b)(1) and (b)(2), if an applicant is not an educational agency, such applicant shall coordinate with the State educational agency.

(d) Projects funded under this section shall to the extent appropriate provide for the direct participation of handicapped students and the parents of handicapped students in the planning, development, and implementation of such projects.

(e) The Secretary, as appropriate, shall coordinate programs described under this section with projects developed under section 311 of the Rehabilitation Act of 1973.

Amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1367.

§ 1426. Program evaluations

The Secretary shall conduct, either directly or by contract, a thorough and continuing evaluation of the effectiveness of each program assisted under this part. Results of the evaluations shall be analyzed and submitted to the appropriate committees of each House of Congress together with the annual report under section 1418.

Pub. L. 91-230, Title VI, § 626, formerly § 625, Apr. 13, 1970, Stat. 183, renumbered Pub. L. 93-380, Title VI, § 616, Aug. 21, 1974, 88 Stat. 584, amended by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1368.

§ 1427. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of section 621, $5,700,000 for fiscal year 1984, $6,000,000 for fiscal year 1985, and $6,300,000 for fiscal year 1986.

(b) There are authorized to be appropriated to carry out the provisions of section 622, $15,000,000 for fiscal year 1984, and for each of the two succeeding fiscal years.

(c) There are authorized to be appropriated to carry out the provisions of section 623, $26,000,000 for fiscal year 1984, $27,100,000 for fiscal year 1985, and $28,300,000 for fiscal year 1986.

(d) There are authorized to be appropriated to carry out the provisions of subsection (c) of section 624, $5,000,000 for fiscal year 1984, $5,300,000 for fiscal year 1985, and $5,600,000 for fiscal year 1986.

(e) There are authorized to be appropriated to carry out the provisions of section 625, $5,000,000 for fiscal year 1984, $5,300,000 for fiscal year 1985, and $5,500,000 for fiscal year 1986.

(f) There are authorized to be appropriated to carry out the provisions of section 626, $6,000,000 for fiscal year 1984, $6,330,000 for fiscal year 1985, and $6,660,000 for fiscal year 1986.

Pub. L. 91-230, Title VI, § 627, formerly § 626, Apr. 13, 1970, 84 Stat. 184, renumbered and amended Pub. L. 93-380, Title VI, §§ 616, 617, Aug. 21, 1974, 88 Stat. 584, amended by Pub. L. 95-49, § 2, June 17, 1977, 91 Stat. 230, and by Pub. L. 98-199, § 10, Dec. 2, 1983, 97 Stat. 1368.

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SUBCHAPTER IV — TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

§ 1431. Grants for personnel training

(a)(1) The Secretary is authorized to make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including the university-affiliated facilities program under the Rehabilitation Act of 1973 and the satellite network of the developmental disabilities program) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education including—

(A) special education teaching, including speech, language, and hearing impaired, and adaptive physical education;

(B) related services to handicapped children and youth in educational settings;

(C) special education supervision and administration;

(D) special education research; and

(E) training of special education personnel and other personnel providing special services.

(2) The Secretary shall ensure that grants awarded to applicant institutions and agencies under this subsection meet State and professionally recognized standards for the training of special education and related services personnel.

(3) Grants under this subsection may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

(4) The Secretary in carrying out the purposes of this subsection may reserve a sum not to exceed 5 per centum of the amount available for this subsection in each fiscal year for contracts to prepare personnel in areas where shortages exist, when a response to that need has not been adequately addressed by the grant process.

(b) The Secretary is authorized to make grants to institutions of higher education and other appropriate nonprofit agencies to conduct special projects to develop and demonstrate new approaches for the preservice training purposes set forth in subsection (a), for regular educators, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children.

(c)(1) The Secretary is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of handicapped children and volunteers who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of handicapped children. Such grants shall be designed to meet the unique training and information needs of parents of handicapped children, including those who are members of groups that have been traditionally underrepresented, living in the area to be served by the grant.

(2) In order to receive a grant under this subsection a private nonprofit organization shall—

(A) be governed by a board of directors on which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth; or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee on which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under this subsection;

(B) serve the parents of children with the full range of handicapping conditions under such grant program; and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities authorized under this subsection.

(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review such parent training and information activities, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

(4) The Secretary shall ensure that grants under this subsection will—

(A) be distributed geographically to the greatest extent possible throughout all the States; and

(B) be targeted to parents of handicapped children in both urban and rural areas, or on a State, or regional basis.

(5) Parent training and information programs assisted under this subsection shall assist parents to—

(A) better understand the nature and needs of the handicapping conditions of their child;

(B) provide followup support for their handicapped child's educational programs;

(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(D) participate in educational decisionmaking processes including the development of their handicapped child's individualized educational program;

(E) obtain information about the programs, services, and resources available to their handicapped child, and the degree to which the programs, services, and resources are appropriate; and

(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

(6) Each private nonprofit organization operating a program receiving assistance under this subsection shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program.

(7) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.

Pub. L. 91-230, Title VI, § 631, Apr. 13, 1970, 84 Stat. 184; amended by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1369.

§ 1432. Grants to state educational agencies for traineeships

The Secretary shall make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for the preservice and inservice training of teachers of handicapped children, or supervisors of such teachers.

Pub. L. 91-230, Title VI, § 632, Apr. 13, 1970, 84 Stat. 184; amended by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1371.

§ 1433. Grants to improve recruitment of educational personnel and dissemination of information concerning educational opportunities for the handicapped

(a) The Secretary is authorized to make a grant to or enter into a contract with a public agency or a nonprofit private organization or institution for a national clearinghouse on the education of the handicapped and to make grants or contracts with a public agency or a nonprofit private organization or institution for other support projects which may be deemed necessary by the Secretary to achieve the following objectives:

(1) to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning—

(A) programs relating to the education of the handicapped under this Act and under other Federal laws; and

(B) participation in such programs, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance;

(2) to encourage students and professional personnel to seek and obtain careers and employment in the various fields relating to the education of handicapped children and youth; and

(3) to provide information on available services and programs in postsecondary education for the handicapped.

(b) In addition to the clearinghouse established under subsection (a), the Secretary shall make a grant or enter into a contract for a national clearinghouse on postsecondary education for handicapped individuals for the purpose of providing information on available services and programs in postsecondary education for the handicapped.

(c)(1) In awarding the grants and contracts under this section, the Secretary shall give particular attention to any demonstrated experience at the national level relevant to performance of the functions established in this section, and ability to conduct such projects, communicate with the intended consumers of information, and maintain the necessary communication with other agencies and organizations.

(2) The Secretary is authorized to make contracts with profit-making organizations under this section only when necessary for materials or media access.

Pub. L. 91-230, Title VI, § 633, Apr. 13, 1970, 84 Stat. 184; amended by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1371.

§ 1434. Reports to Secretary

(a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training, and

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training.

(b) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

Pub. L. 91-230, Title VI, § 634, Apr. 13, 1970, 84 Stat. 185; amended by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1372.

§ 1435. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the provisions of this part (other than section 633) $58,000,000 for fiscal year 1984, $61,150,000 for fiscal year 1985, and $64,370,000 for fiscal year 1986. There are authorized to be appropriated to carry out the provisions of section 633, $1,000,000 for fiscal year 1984, $1,050,000 for fiscal year 1985, and $1,110,000 for fiscal year 1986.

(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve 10 per centum for activities under section 631(c).

Pub. L. 91-230, Title VI, § 636, Apr. 13, 1970, 84 Stat. 185; Pub. L. 93-380, Title VI, § 618, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95-49, § 3, June 17, 1977, 91 Stat. 230, amended by Pub. L. 98-199, § 11, Dec. 2, 1983, 97 Stat. 1372.

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SUBCHAPTER V — RESEARCH IN THE EDUCATION OF THE HANDICAPPED

§ 1441. Research and demonstration projects in education of handicapped children

(a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth. Research and related activities assisted under this section shall include, but not be limited to, the following:

(1) The development of new and improved techniques and devices for teaching handicapped children and youth.

(2) The development of curricula which meet the unique educational needs of handicapped children and youth.

(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped children and youth.

(4) The development of program models and exemplary practices in areas of special education.

(5) The dissemination of information on research and related activities conducted under this part to interested individuals and organizations.

(b) In carrying out this section the Secretary shall consider the special education experience of the applicant and the ability of the applicant to disseminate the findings of any grant or contract.

(c) The Secretary shall publish proposed research priorties in the Federal Register every two years, not later than July 1, and shall allow a period of sixty days for public comments and suggestions. After analyzing and considering the public comments, the Secretary shall publish final research priorities in the Federal Register not later than thirty days after the close of the comment period.

(d) The Secretary shall provide an index (including the title of each research project and the name and address of the researching organization) of all research projects conducted in the prior fiscal year in the annual report described under section 618. The Secretary shall make reports of research projects available to the education community at large and to other interested parties.

(e) The Secretary shall coordinate the research priorities established under this section with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under this section to the National Council on the Handicapped and to the National Advisory Committee on the Education of Handicapped Children.

Pub. L. 91-230, Title VI, § 641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95-49, § 4, June 17, 1977, 91 Stat. 230, amended by Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1372.

§ 1442. Research and demonstration projects in physical education and recreation for handicapped children

The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

Pub. L. 91-230, Title VI, § 642, Apr. 13, 1970, 84 Stat. 185; amended by Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1373.

§ 1443. Panels of experts

The Secretary shall from time to time appoint panels of experts who are competent to evaluate various types of proposals for projects under parts C, D, E, and F, and shall secure the advice and recommendations of one such panel before making any grant or contract under parts C, D, E, and F of this Act. The panels shall be composed of—

(1) individuals from the field of special education for the handicapped and other relevant disciplines who have significant expertise and experience in the content areas and age levels addressed in the proposals; and

(2) handicapped individuals and parents of handicapped individuals when appropriate.

Pub. L. 91-230, Title VI, § 643, Apr. 13, 1970, 84 Stat. 185, amended by Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1373.

§ 1444. Authorization of appropriations

For purposes of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1984, $21,100,000 for fiscal year 1985, and $22,200,000 for fiscal year 1986.

Pub. L. 91-230, Title VI, § 644, Apr. 13, 1970, 84 Stat. 186; amended by Pub. L. 93-380, Title VI, §§ 619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95-49, § 5, June 17, 1977, 91 Stat. 231, and by Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1374.

SUBCHAPTER VI — INSTRUCTIONAL MEDIA FOR HANDICAPPED

§ 1451. Congressional statement of purpose

(a) The purposes of this subchapter are to promote—

(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together, and

(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped.

Pub. L. 91-230, Title VI, § 651, Apr. 13, 1970, 84 Stat. 186.

§ 1452. Captioned films and educational media for handicapped persons

Establishment of loan service

(a) The Secretary shall establish a loan service of captioned films and educational media for the purpose of making such materials available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped in accordance with regulations.

Authority of Secretary

(b) The Secretary is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchased[1] equipment necessary to the administration of this subchapter;

(3) provide, by grant or contract, for the captioning of films;

(4) provide, by grant or contract, for the distribution of captioned films and educational media and equipment through State schools for the handicapped and such other agencies as the Commissioner may deem appropriate to serve as local or regional centers for such distribution.

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

Pub. L. 91-230, Title VI, § 652, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93-380, Title VI, § 620(1), Aug. 21, 1974, 88 Stat. 585; Pub. L. 94-482, Title V, § 501(h), Oct. 12, 1976, 90 Stat. 2237.

§ 1453. Centers on educational media and materials for handicapped

(a) The Secretary is authorized to enter into agreements with institutions of higher education, State and local educational agencies, or other appropriate nonprofit agencies, for the establishment and operation of centers on educational media and materials for the handicapped, which together will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing, developing, and adapting instructional materials, and such other activities consistent with the purposes of this subchapter as the Secretary may prescribe in such agreements. Any such agreement shall—

(1) provide that Federal funds paid to a center will be used solely for such purposes as are set forth in the agreement; and

(2) authorize the center involved, subject to prior approval by the Secretary, to contract with public and private agencies and organizations for demonstration projects.

Preferences to qualified institutions and agencies

(b) In considering proposals to enter into agreements under this section, the Secretary shall give preference to institutions and agencies—

(1) which have demonstrated the capabilities necessary for the development and evaluation of educational media for the handicapped; and

(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89-694).

Annual Report to Congress

(c) The Secretary shall make an annual report on activities carried out under this section which shall be transmitted to the Congress.

Pub. L. 91-230, Title VI, § 653, Apr. 13, 1970, 84 Stat. 187; Pub. L. 94-142, § 6(b), Nov. 29, 1975, 89 Stat. 795.

[1] So in original. Probably should read "purchase."

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§ 1454. Authorization of appropriations

For the purposes of carrying out this part, there are authorized to be appropriated $19,000,000 for fiscal year 1984, $20,000,000 for fiscal year 1985, and $21,100,000 for fiscal year 1986.

Pub. L. 91-230, Title VI, § 653, Apr. 13, 1970, 84 Stat. 187; amended by Pub. L. 93-380, Title VI, §§ 620(2), Aug. 21, 1974, 88 Stat. 585; Pub. L. 95-49, § 6, June 17, 1977, 91 Stat. 231, and by Pub. L. 98-199, § 13, Dec. 2, 1983, 97 Stat. 1374.

APPENDIX

CEC PUBLIC POLICY RESOURCES

Stock No.	Title
277	Judicial Interpretation of the Education for All Handicapped Children Act, H. Rutherford Turnbull, III, Esq., and Craig R. Fiedler, Esq. 1984, 28pp. CEC/ERIC $6.00
254	An Appropriate Education for Handicapped Children of Limited English Proficiency, Leonard Baca and Jim Bransford. 1982, 25pp. CEC/ERIC $4.00
253	Policy Considerations Related to Early Childhood Special Education, Barbara J. Smith. 1982, 24pp. CEC/ERIC $4.00
252	Special Education in America: Its Legal and Governmental Foundations, edited by Joseph Ballard, Bruce Ramirez, and Frederick J. Weintraub. 1982, 112pp. ISBN 0-86586-133-1 $16.50
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